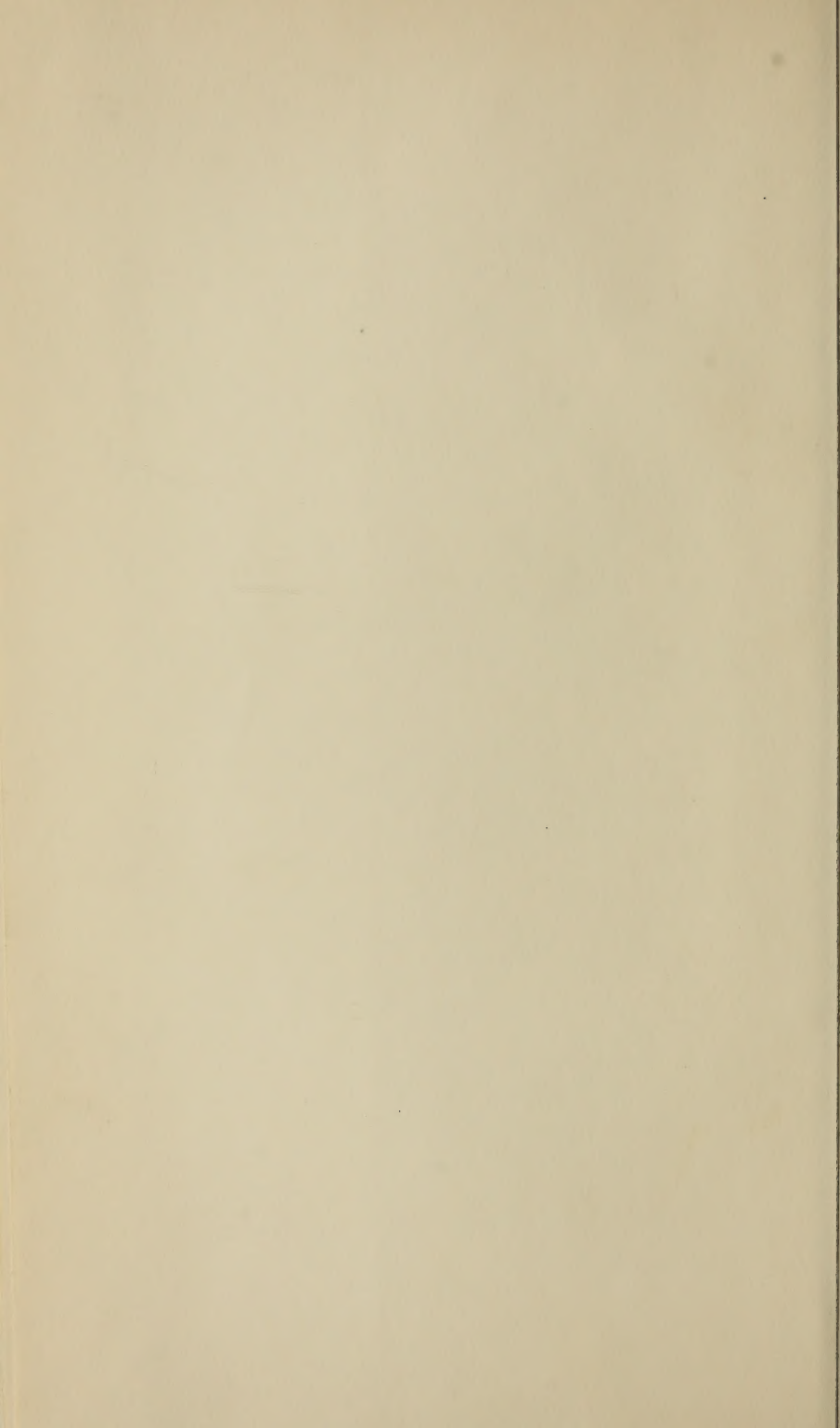


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THE

NEW MUNICIPAL MANUAL

FOR

UPPER CANADA,

CONTAINING

NOTES OF DECIDED CASES,

AND

A FULL ANALYTICAL INDEX.

EDITED BY

ROBERT A. HARRISON, B.C.L.,

BARRISTER-AT-LAW,

JOINT EDITOR OF "THE UPPER CANADA LAW JOURNAL," AND EDITOR OF "THE
COMMON LAW PROCEDURE ACT, 1856," &c., &c., &c.

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TORONTO:

MACLEAR & CO., 17 & 19 KING STREET EAST.

.....
1859.

NOTICE.

The preparation of an Edition of Municipal Forms having been strongly pressed upon the Editor of this Work, Clerks of Municipal Councils will oblige him by transmitting to his address, Toronto, by mail, copies of such By-laws and other Municipal Forms as in their respective Municipalities are from time to time prepared, settled, or approved by Counsel, together with the names of Counsel. The copies to be written on foolscap paper, and on one side only.

ENTERED according to Act of the Provincial Legislature in the year of our Lord one thousand eight hundred and fifty-eight, by ROBERT A. HARRISON, in the Office of the Registrar of the Province of Canada.

APPENDIX
First Chamber

THE MUNICIPAL COUNCILS

OF

UPPER CANADA,

THIS WORK

IS

RESPECTFULLY INSCRIBED

BY

THE EDITOR.

ADDENDA.

- Page 4, line 21, *after* "Ib" *add* "If the Council not only refuse to accept the work but order the contractor not to proceed no action will lie on a contract not under seal for the price of the work:" (McLean v. The Town Council of Brantford, 16 U. C. Q. B., 347.)
- Page 34, at the *end* of note *r*, *add* "Where a party slept and lived during the week days in a house with other parties, having one common entrance, while his wife and family resided at a village a few miles distant, it was held that he was entitled to vote as a resident householder in the village where he lived during the week:" (The Queen ex rel Forwood v. Bartels, 7 U. C. C. P. 533.)
- Page 34, at the *end* of note *u*, *add* "Upon a question as to the age of a voter, the written memoranda and return of the clergyman who married his father and mother were held to be better evidence than the memory of individuals unaccompanied by any memoranda."—(Ib.)
- Page 42, at the *end* of note *e*, *add* "A returning officer who accepts a vote which he knows to be bad, in order to create an equality of votes, and so decide the election by his casting vote, may be compelled to pay the costs of a new election:" (The Queen ex rel Totten v. Benn, 4 U. C. Law Journal 262.)
- Page 67, at the *end* of note *f*, *add* "It was held under the old statute that a majority of the whole number forming a Provisional Municipal Council of a County must vote at the election of a warden:" (The Queen ex rel Evans v. Starratt, 7 U. C. C. P. 487.)

EXPLANATION OF ABBREVIATIONS.

- U. C. Q. B.—The Upper Canada Queen's Bench Reports.
U. C. C. P.—The Upper Canada Common Pleas Reports.
U. C. Pr. R.—The Upper Canada Practice Court Reports.
U. C. Cham. R.—The Upper Canada Chamber Reports.
U. C. L. J.—The Upper Canada Law Journal, Municipal and Local Courts' Gazette.
R. & H. Dig.—Robinson and Harrison's Digest of the Upper Canada Reports.

PREFACE.

In the prospectus issued for this work it was said that the Municipal Laws of Upper Canada are in importance second to none of the laws of the Province, and that every Municipal Corporation is a small Parliament, possessed of extensive but yet limited powers. It was then pointed out, that to ascertain in every case the existence or non-existence of a power—the nature of it—its precise limit and the mode in which it should be exercised is the object of all who are in any manner concerned in the administration of Municipal affairs.

When it is considered, that in the first instance these matters are to be determined by Municipal Councils, seldom containing Members versed in the laws, often acting without the aid of professional advice, the importance of a guide becomes, as said in the prospectus, manifest.

That guide it has been the aim of the Editor in the following pages to produce. He now proposes as briefly as possible to state upon what principles and in what manner he has performed his task.

The Legislature, having by the consolidated Act of the present year, classified many Municipal enactments and repealed many of those that were effete or thereby rendered useless, the Editor with the assistance of legal friends of greater experience than himself, in the first place applied himself to the work of expounding the Consolidated Act by the light of adjudged cases. This he did patiently and assiduously, noting latent difficulties and explaining as far as possible all difficulties of every kind that occurred to him. The result is a body of notes more elaborate than he contemplated when he began his labors. All decisions reported in time for his pen, have been carefully epitomized and introduced into the notes so written.

Having in this manner continued his labors until the completion of the Consolidated Act, he next turned his attention to other Acts of a like kind, promiscuously scattered through the twenty-two volumes containing the Provincial Statutes. Beginning at the first Act he selected in chronological order such acts as from their nature a person

would expect to find in a Municipal Manual, until he reached the last Act of the kind now in force. The result is a large collection of Acts and parts of Acts added to the end of the Consolidated Municipal Act.

One great difficulty which the Editor experienced from first to last, was to publish all Acts at all of use to Municipalities, and yet to keep his book in a single volume of moderate dimensions. To accomplish this, Acts have been abbreviated by the omission of mere formal matter, Acts of a private nature and so of little public utility have been in some places abridged by the statement of substance only, and in others nothing has been given except the title or heading, when expressive of the object. Other Acts, such as those regulating the inspection of Beef, Pork, Ashes and the incorporation of Road and other Companies have, because of their great length and comparatively speaking little general utility, been entirely excluded. So have the Common School and Grammar School Acts. The reason of the exclusion of the latter is that they are contained in "The Educational Manual," a small work within the reach of all, and it is presumed in the possession of all engaged in the execution of those Statutes.

The arrangement adopted has been the chronological, in preference to the analytical. The reason being that by such an arrangement the growth of the law is opened up to public view, while for convenience of reference the addition of a very full analytical Index imparts to the work all the benefits of analysis. Thus, under Toronto, Kingston, Hamilton, &c., in the Index will be found references to Acts applying specially to these Cities though published in different parts of the Volume. To make the Chronological arrangement still more effective, the Editor has, as a rule, in the margin of each Statute wherever it is altered or affected by a subsequent Statute, made a reference to the subsequent statute. The object of this is to guard against reading any one provision as the only or whole law on the subject wherever there are others which ought to be read in connexion with it.

For the convenience of the legal profession as well as for the information of all concerned, the Rules of Court governing contested Municipal Elections, have been added in the appendix and noted in the general Index like other parts of the Work. In the appendix will also be found a form of By-law to contract a debt by borrowing money. The utility not to say necessity of such forms is well known. In the

preparation of this edition of the MUNICIPAL MANUAL, the Editor had neither the time nor the materials to enable him to give a complete set of Municipal Forms. He, however, did what he could towards supplying the void by preparing a form of a By-law of more general use than that of any other form of By-law. His reasons for so doing were two fold. First, to furnish a model whereby other By-laws may be drawn. And secondly, to furnish a form for that By-law, which of all others must essentially be correct both in form and in substance.

Great responsibility rests upon those who undertake to prepare by-laws, on the legality or illegality of which large monied transactions are made to depend. Some form must be observed; and yet a close adherence to technical nicety may in certain cases work positive injustice. Were it possible to secure for money by-laws the stamp of legality, so as to remove all suspicion of informality, irregularity or illegality, the effect would be eminently beneficial. It would beget a spirit of confidence, alike of advantage to the seller and to the buyer of Municipal debentures. Less room would be left for speculation or trade in the fears of men or contingencies of law, and more stability be imparted to the negotiation of Canadian Municipal Securities; one consequence of which—and not the least—would be, that the market value of all such securities would be proportionably increased. The only mode likely to attain so desirable an end that at present occurs to the Editor, would be to require all by-laws of this kind to be approved by some public functionary, and, when approved, to be unimpeachable on the ground of informality or want of technical accuracy. Such is the principle applied to by-laws passed to raise money on the credit of the Consolidated Revenue Fund. It is enacted, that “no informality or irregularity in any such by-law, or in the proceedings relative thereto, anterior to the passing thereof, shall in any manner affect the validity thereof, after the Governor-General in Council shall have approved of such by-law; but the order in Council approving such by-law shall be held to cover any such informality or irregularity, and the by-law shall be valid to all intents and purposes.” (16 Vic. cap. 123, sec. 5.)

It is easy to perceive how efficacious would be this seal of approval, if applied to all money by-laws. The object of it is to secure the confidence of the public. That object is as much needed in the case of any ordinary money by-law, as one to raise money on the credit of the

Consolidated Municipal Loan Fund; and if beneficial in the one case, the Editor cannot help suggesting that the benefits ought, by some appropriate machinery, to be extended to all similar cases. Indeed the Legislature have, in other instances, partially affirmed the principle. It is by the Consolidated Municipal Act enacted, that "in case a by-law by which a rate is imposed has been specially promulgated in the manner specified, no application to quash the by-law shall be entertained after six calendar months have elapsed since its promulgation," (sec. 195,) and that "in case no application to quash any by-law so specially promulgated is made within the time limited for that purpose, the by-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, so far as the same ordains, prescribes or directs any thing within the proper competence of the Council to ordain, prescribe or direct, shall, notwithstanding any want of substance or form, either in the by-law itself or in the time or manner of passing the same, be a valid by-law." (Sec. 200.)

With these observations, the present edition of the MUNICIPAL MANUAL is submitted to the public. Of the public, the Editor has only one request to make. It is, that imperfections are not to be attributed to neglect, but to circumstances—such as want of time and want of space—over which he, however well disposed, had no control.

QUEEN STREET WEST,
22nd December, 1858.

TABLE OF CASES.

	PAGE.
ALLEN & Walker, (2 M. & W. 317).....	103
Anonymous, (15 Uik 44).....	34
Attorney General & Wigan, (18 Jur. 299).....	109
BAKER & The Municipal Council of Paris, (1 U. C. Q. B. 621) 93, 94, 127,	128
Barclay and Township Council of Darlington, (11 U. C. Q. B. 470) 5, 98...	128
Bartlett & Smith, (11 M. & W. 486).....	218
Bartlett & The Municipality of Amherstburgh, (14 U. C. Q. B. 151).....	4
Baxter & Hersin, (12 U. C. Q. B. 139).....	131
Bell & The Municipality of Manvers, (2 U. C. C. P. 507).....	138
Bessey & The Municipal Council of Grantham, (11 U. C. Q. B. 155).....	94
Billings & The Municipal Council of Gloucester, (10 U. C. Q. B. 273).....	94
Blow v. Russell, (1 C. & P. 365).....	99
Boulton & The Town Council of Peterborough, (16 U. C. Q. B. 380).....	190
Brady v. Jones, (2 D. & R. 305).....	99
Brown & The Municipal Council of Sarnia, (9 U. C. Q. B. 87).....	98, 178
— & The Municipal Council of York, (9 U. C. Q. B. 453) 95,.....	171
Bruce v. Bruce, (2 B. & P. 229 n.).....	78
Bryant & The Municipality of Pittsburg, (3 U. C. Q. B. 347).....	112
Buchart & The Municipality of the United Townships of Brant and Carrick (6 U. C. C. P. 130).....	93
CÆSAR & The Municipality of Cartwright (12 U. C. Q. B. 341).....	93
Cameron & the Municipal Council of East Nissouri (3 U. C. Q. B. 190).....	85, 111
Canada Co. & The Municipal Council of Oxford, (9 U. C. Q. B. 567) 85, 110	111
Carey & Tate, (6 U. C. O. S. 147).....	210
Carter & Sullivan, (4 U. C. C. P. 298).....	22
Case of Corporations, (4 Co. 77).....	86
Christmas v. Eicke, (6 D. & L. 156).....	60
Choate & The Municipality of the Township of Hope, (6 U. C. Q. B. 424)...	181
Church <i>qui tam</i> v. Richards, (6 U. C. Q. B. 562).....	132
Clarke v. Durham, (R. & H. Dig. 431).....	431
Cochran v. Heslap, (3 U. C. C. P. 440).....	179
Codrington v. Curlewis (9 Dowl P. C. 968).....	96
Cole v. Blake, (Peake 179).....	99
Collins v. Swindle, (4 U. C. L. J. 42).....	106
Conger & Peterborough Municipal Council (8 U. C. Q. B. 349).....	93, 178
Carter & Kent Water Works Co., (7 B. & C. 314).....	109
Coyne & The Municipal Council of Dunwich, (9 U. C. Q. B. 309).....	95, 128
Croft & The Town Council of Peterborough, (5 U. C. C. P. 141).....	98, 178
DANIELS & The Municipal Council of the Township of Burford, (10 U. C. Q. B. 478).....	79, 85, 93
Davies v. Morgan, (2 C. & J. 237).....	60
Davison <i>et al</i> v. Gill, (1 East 64).....	388
Dawson v. Wilkinson, (Cases T. Hard 381).....	109

	PAGE.
Dela Haye & The Municipality of the Gore of Toronto, (2 U. C. C. P. 317)	93
Dennis & Hughes, <i>et al</i> (8 U. C. Q. B. 444).....	171, 172, 178
Dickson (Executors of) & The Municipal Council of the Village of Galt, (9 U. C. Q. B. 257).....	177
Douglass v. Patrick, (3 T. R. 684).....	99
Duiganans Case, (All El. cases 114).....	76
Duke of Marlborough, In re (13 Jur. 738).....	174
EAST Lincolnshire Railway Act, (1 Sim. N. S. 260).....	175
Euphrasia Township Clerk, In re (12 U. C. Q. B. 622).....	93
FAIR v. Moore, (3 U. C. C. P. 484).....	4, 88
Farrell & The Mayor and Town Council of London, (12 U. C. Q. B. 343)...	3
Fetterly & The Municipality of Russell and Cambridge, (14 U. C. Q. B. 433)	4
Fisher & The Municipal Council of Vaughan, (10 U. C. Q. B. 492) 5, 85, 94, 2, 171, 173	173
Fleming v. McNaughten, (16 U. C. Q. B. 194).....	22
Fletcher & The Municipality of Euphrasia, (13 U. C. A. B. 126).....	89, 110
Fraser & The Municipal Council of the United Counties of Stormont, Dundas and Glengary, (10 U. C. Q. B. 286)	93
Frith & Donegal, (2 Dowl P. C. 527).....	60
GATES v. Tinning, (3 U. C. Q. B. 295).....	147
Gibson v. Musket, (3 Scott N. R. 429).....	45
Glick & Davidson, (15 U. C. Q. B. 591).....	22
Goggs v. Huntingtower, (15 U. C. Q. B. 591).....	59, 60
Graystock & The Municipality of Otonabee, (12 U. C. Q. B. 458)	128
Greerson & The Municipal Council of Ontario, (9 U. C. Q. B. 623).....	85, 94
HARNER's Estate, In re (16 Jur. 1063)	175
Hawk and Ballard, In re (3 U. C. C. P. 241)	28, 65, 79
Hawke and The Municipality of Wellesley (13, U. C. Q. B. 636).....	112, 124
Hawkeshaw and The District Council of the District of Dalhousie (7 U. C. Q. B. 590).....	124
Hawkins and The Municipal Council of Huron Perth and Bruce, (2 U. C. C. P. 72).....	5
Hespeler, In re (16 U. C. Q. B. 104).....	145
Hill and The Municipal Council of the Township of Walsingham (9 U. C. Q. B. 310)	94, 116
Hirous et al and The Municipal Council of Amhertsburgh (11 U. C. Q. B. 458)	93
Hodgson and The Municipal Council of York and Peel (3 U. C. Q. B. 268)...	94
Hopkins and the Mayor of Swansea (4 M. & W. 460).....	84
Huron District Council and London District Council (4 U. C. Q. B. 302).....	3
JACKSON v. Jacobs (3 Bing. N. C. 869).....	99
Jennings v. Turner (8 C. & P. 61).....	99
Johnston v. Reesor et al (10 U. C. Q. B. 101).....	171
Jones v. Johnson (5 Ex. 862, 7 Ex. 452).....	109
Justices Huron District v. Huron District Council (5 U. C. Q. B. 574).....	124
KENNEDY v. The Municipal Council of Sandwich (9 U. C. Q. B. 326)...	84, 106
Keyley v. Manning (Cro. Car. 180)	16
King (The) v. Chappel Warden of Bradford (12 East, 556).....	109
_____ v. do. of Haworth (12 East, 556).....	109
_____ v. Duke of Richmond (6 T. R. 560)	78

	PAGE.
King (The) v. Eyles (Cald. S. C. 414)	76
_____ v. Gibbs (1 East, 173)	212
_____ v. Higgins (2 East, 33)	212
_____ v. Inhabitants of North Curry (4 B. & C. 961)	78
_____ v. Justices of Flintshire (5 B. Al. 761)	109
_____ v. _____ of Huntingdonshire (5 D. & R. 588)	53
_____ v. _____ of Shropshire (8 A. & E. 173)	41
_____ v. _____ of Worcester (7 Dowl. P. C. 789)	53
_____ v. Lane (2 Rayd, 1033)	68
_____ v. Mayor of Ripon (1 Rayd, 563)	68
_____ v. Mitchell (10 East, 511)	78
_____ v. Respell (3 Burr, 1320)	212
_____ v. Sanderson (3 U. C. O. S., 103)	181
_____ v. Sargent (5 T. R., 456)	78
_____ v. Scritch (4 Mod., 379)	212
_____ v. Spencer (3 Burr, 1838)	86
_____ v. Summers (3 Salk. 194)	212
_____ v. Taylor (2 Str. 1167)	156
_____ v. Tedderley (Sid. 14)	68
_____ v. Wavell et al. (Doug. 116)	109
Kraus v. Arnold (7 Moo. 59)	99
LAFFERTY v. The Municipal Council of Wentworth and Halton (8 U. C. Q. B. 232)	95, 172, 173
Leatherdale v. Sweepstone (3 C. & P. 342)	99
MAGRATH v. The Municipality of the Township of Brock, (13 U. C. Q. B. 629)	98
Mallough v. The Municipality of Ashfield, (6 U. C. C. P. 158)	159
Marsden v. Goode, (2 C. & K. 133)	99
McAvoy v. The Municipality of Sarnia (12 U. C. Q. B. 99)	128
McGill v. The Municipal Council of Peterborough, (9 U. C. Q. B. 562) ...	9, 398
McIntyre v. The Municipal Council of Bosanquet, (11 U. C. Q. B. 460) ...	171
McKenize v. The Mayor, Aldermen and Commonalty of the City of Kingston, (13 U. C. Q. B. 634)	98
McWhirter v. Corbet, (4 U. C. C. P. 203)	22
Mellish v. The Town Council of Brantford, (2 U. C. C. P. 35)	102
Middlesex Co. v. City of London, In re. (14 U. C. Q. B. 334)	224
Milburn v. Milburn, (4 U. C. Q. B. 179)	99
Mitchell v. Foster, (9 Dowl. P. C. 527)	41
_____ v. King, (6 C. & P. 237)	99
Moore v. Jarron, (9 U. C. Q. B. 233)	177
NORRIS v. Stubbs, (Hob. 86)	86
Northumberland and Durham v. Bull et al, (8 U. C. Q. B. 375)	3
ORE v. Ramsay, et al (12 U. C. Q. B. 377)	135
PERRIN v. The Town Council of Whitby, (13 U. C. Q. B. 564)	94, 110
Phillips' case (Allcock Regn Cases, 20)	76
Pigeon v. Bruce, (8 Taunt 410)	60
Plaseton et al v. Smith, (1 U. C. Prac. R. 225)	18
Pringle v. McDonald, (10 U. C. Q. B. 254)	79
Purdy v. Farley, (10 U. C. Q. B. 545)	181, 182, 183

	PAGE.
THE QUEEN v. Aston, (1 L. M. & P. 491)	53
— v. Council of Perth, (14 U. C. Q. B. 156).....	195
— v. Cummings (4 U. C. L. J. 182).....	83
— v. District Council of Gore, (5 U. C. Q. B. 357).....	79, 138
— v. France, (21 L. J. Q. B. 304).....	33
— v. Municipal Council of Perth, (14 U. C. Q. B. 156).....	73
— v. Smith, (4 U. C. Q. B. 322).....	74
— v. Tinning, (11 U. C. Q. B. 636).....	145
— v. Yarrington, (1 Salk. 406).....	212
— v. York, (2 Q. B. 847)	33
— ex rel Beaty v. O'Donahue, (3 U. C. L. J. 75).....	55, 56, 63
— ex rel Blaisdell v. Rochester, (12 U. C. Q. B. 630).....	57
— ex rel Clark v. Mullen, (4 U. C. Q. B. 467).....	58
— ex rel Coleman v. O'Hare, (2 U. C. Prac. Rep. 18).....	33
— ex rel Davis v. Wilson, (3 U. C. L. J. 165).....	42, 62
— ex rel Davy v. Bogart et al, (2 U. C. Pr. R. 18).....	57
— ex rel Dundas v. Niles, (1 U. C. Cham. Rep. 198).....	42
— ex rel Gardner v. Perry, (M. S. 462)	62
— ex rel Gibbs v. Brannigan, (3 U. C. L. J. 127).....	62
— ex rel Greely v. Gilbert, (16 U. C. Q. B. 263)	44
— ex rel Hall v. Gray et al, (15 U. C. Q. B. 257)....	42
— ex rel Helliwell v. Stephenson, (1 U. C. Cham. Rep. 270).....	42
— ex rel Lawrence v. Woodruff, (8 U. C. Q. B. 336).....	58
— ex rel Loyall v. Ponton, (2 U. C. Prac. Rep. 18).....	57
— ex rel McKeown v. Hogg, (15 U. C. Q. B. 140).....	63
— ex rel Metcalfe v. Smart, (10 U. C. Q. B. 89).....	31, 58
— ex rel Mitchell v. Adams, (1 U. C. Cham. R. 203).....	57
— ex rel Moore v. Miller, (11 U. C. Q. B. 465).....	33
— ex rel Rosebush v. Parker, (2 U. C. C. P. 15)	57
— ex rel Stock v. Davis, (3 U. C. L. J. 128).....	31
— ex rel Swan v. Rowat, (13 U. C. Q. B. 340).....	62
— ex rel Taylor v. Caesar, (11 U. C. Q. B. 461).....	34
— ex rel Wilson v. Davis, (3 U. C. L. J. 165).....	44
RAINES v. The Credit Harbor Company, (1 U. C. Q. B. 174)	124
Ramsay v. The Western District Council, (4 U. C. Q. B. 374).....	4
Reid v. The Mayor, Aldermen and Commonalty of Hamilton, (5 U. C. C. P. 629)	98, 178
Richmond v. The Municipalities of the Front of Leeds and Lansdowne, (8 U. C. Q. B. 567)	184
SAMS v. The City of Toronto, (9 U. C. Q. B. 181)	5, 93, 94
Sells and the Municipality of St. Thomas, (3 U. C. C. P. 286).....	110
Sheldon v. Law, (3 U. C. O. S. 85).....	147
Simpson v. Ready, (12 M. & W. 736).....	33
Smith v. The Municipal Council of Euphrasia, (8 U. C. Q. B. 222).....	171
— v. The United Counties of Prescott and Russell, (10 U. C. Q. B. 282)	124
— v. Wintle, (Barnes 405)	60
Snook et al v. The Town Council of Brantford, (13 U. C. Q. B. 621).....	98, 178
Spafford v. Hubbel, (R. & H. Dig. 294)	201
Stewart's Estate In re, (16 Jur. 1053).....	175
Strong v. Harvey, (3 Bing. 304)	99
Sutherland v. The Municipal Council of East Nissouri, (10 U. C. Q. B. 626)	67, 94, 95
Swinfen v. Swinfen, (3 Jur. N. S. 585).....	90

TABLE OF CASES.

xiii.

	PAGE.
THOMPSON v. Hamilton, (5 U. C. O. S. 111).....	99
Toder v. Sansam, (1 Bro. P. C. 668)	34
Townee's Case, (2 Rayd. 1009).....	109
Trimbey v. Vignier, (1 Bing. N. C. 151).....	102
Tylee v. The Municipality of Waterloo, (9 U. C. Q. B. 592) ...	108, 111, 112
WARREN v. Love, (7 Dowl. P. C. 602)	96
Whetham v. Thomas, (7 M. & G. 1).....	78
Wilkes v. The Town Council of Brantford, (3 U. C. C. P. 470)	212
Wilson v. The Municipal Council of the County of Elgin, (13 U. C. Q. B. 218)	110
—— v. The Municipal Council of the Town of Port Hope, (10 U. C. Q. B. 405).....	197
Wilt v. Lai, (7 U. C. Q. B. 535).....	145
Woods v. Reid, (2 M. & W. 777).....	109
Wortley v. Glover, (2 Str. 877)	59
Wright v. The Municipal Council of the Town of Cornwall, (9 U. C. Q. B. 442).....	8, 138

LIST OF ACTS

IN WHOLE OR IN PART PUBLISHED IN THIS VOLUME.

	PAGE.		PAGE.
32 GEO. III. CAP. 7.....	238	5 WM. IV. CAP. 10.....	248
—— CAP. 8.....	239	—— CAP. 20.....	250
39 GEO. III. CAP. 3.....	240	—— CAP. 21.....	250
50 GEO. III. CAP. 5.....	241	—— CAP. 26.....	250
2 GEO. IV. CAP. 14.....	241	7 WM. IV. CAP. 58.....	251
4 GEO. IV. CAP. 16.....	241	—— CAP. 59.....	251
—— CAP. 35.....	243	1 VIC. CAP. 21	251
6 GEO. IV. CAP. 5.....	243	2 VIC. CAP. 21	251
7 GEO. IV. CAP. 15.....	243	3 VIC. CAP. 13	252
—— CAP. 16.....	243	—— CAP. 14	252
9 GEO. IV. CAP. 2.....	244	—— CAP. 17	253
—— CAP. 4.....	245	—— CAP. 73.....	253
10 GEO. IV. CAP. 13.....	245	4 & 5 VIC. CAP. 43	254
—— CAP. 14.....	246	—— CAP. 70	255
11 GEO. IV. CAP. 15.....	246	—— CAP. 75	256
—— CAP. 16.....	246	7 VIC. CAP. 5.....	256
—— CAP. 36.....	691	—— CAP. 7.....	258
1 WM. IV. CAP. 8.....	246	—— CAP. 14.....	267
2 WM. IV. CAP. 19.....	247	—— CAP. 36.....	268
3 WM. IV. CAP. 38.....	247	—— CAP. 39.....	269
4 WM. IV. CAP. 19.....	247	—— CAP. 40.....	270
—— CAP. 20.....	247	—— CAP. 42.....	270
—— CAP. 21.....	248	8 VIC. CAP. 6.....	270

	PAGE.		PAGE.
8 VIC. CAP. 11.....	275	13 & 14 VIC. CAP. 85	419
— CAP. 15.....	276	— CAP. 86	420
— CAP. 20.....	277	— CAP. 88	421
— CAP. 34.....	285	— CAP. 89	421
— CAP. 38.....	286	— CAP. 90	421
— CAP. 44.....	287	14 & 15 VIC. CAP. 4	421
— CAP. 50.....	289	— CAP. 5	423
— CAP. 66.....	290	— CAP. 30	435
9 VIC. CAP. 9.....	291	— CAP. 31	435
— CAP. 17.....	292	— CAP. 38	436
— CAP. 38.....	293	— CAP. 39	436
— CAP. 58.....	294	— CAP. 49	438
10 & 11 VIC. CAP. 12	299	— CAP. 51	444
— CAP. 18.....	303	— CAP. 57	445
— CAP. 20.....	305	— CAP. 73	446
— CAP. 52	306	— CAP. 77	448
— CAP. 54	306	— CAP. 83	451
12 VIC. CAP. 5	306	— CAP. 111	455
— CAP. 8	308	— CAP. 123	456
— CAP. 10	315	16 VIC. CAP. 5	456
— CAP. 11	322	— CAP. 21	459
— CAP. 27	323	— CAP. 22	459
— CAP. 35	329	— CAP. 31	472
— CAP. 78	348	— CAP. 32	472
— CAP. 80	353	— CAP. 33	475
— CAP. 81	356	— CAP. 34	475
— CAP. 85	370	— CAP. 36	476
— CAP. 87	376	— CAP. 95	477
— CAP. 90	377	— CAP. 96	479
— CAP. 91	378	— CAP. 97	480
— CAP. 92	379	— CAP. 123	482
— CAP. 94	381	— CAP. 126	484
— CAP. 95	381	— CAP. 152	485
— CAP. 96	382	— CAP. 163	490
— CAP. 98	383	— CAP. 164	493
— CAP. 99	384	— CAP. 169	499
— CAP. 100	385	— CAP. 170	499
— CAP. 101	385	— CAP. 178	500
— CAP. 102	386	— CAP. 182	500
— CAP. 197	386	— CAP. 183	539
— CAP. 200	392	— CAP. 186	546
13 & 14 VIC. CAP. 13	393	— CAP. 219	546
— CAP. 14.....	394	— CAP. 221	555
— CAP. 18	397	— CAP. 222	555
— CAP. 31	400	— CAP. 223	555
— CAP. 54	400	— CAP. 224	555
— CAP. 64.....	402	— CAP. 226	555
— CAP. 69	407	— CAP. 227	555
— CAP. 71	409	— CAP. 228	556
— CAP. 74	410	— CAP. 229	556
— CAP. 75	417	— CAP. 230	556
— CAP. 77	418	18 VIC. CAP. 2	556
— CAP. 78	418	— CAP. 21	559
— CAP. 84	419	— CAP. 23	560

LIST OF ACTS.

XV.

	PAGE.
18 VIC. CAP. 25	561
_____ CAP. 26	561
_____ CAP. 27	562
_____ CAP. 28	562
_____ CAP. 29	563
_____ CAP. 58	563
_____ CAP. 69	565
_____ CAP. 82	566
_____ CAP. 83	566
_____ CAP. 119	570
_____ CAP. 121	573
_____ CAP. 129	575
_____ CAP. 135	576
_____ CAP. 137	576
_____ CAP. 138	577
_____ CAP. 140	579
_____ CAP. 145	580
_____ CAP. 146	581
_____ CAP. 147	581
_____ CAP. 148	581
_____ CAP. 149	583
_____ CAP. 150	583
_____ CAP. 151	583
_____ CAP. 152	583
_____ CAP. 153	583
_____ CAP. 154	584
_____ CAP. 155	584
_____ CAP. 156	584
_____ CAP. 171	584
_____ CAP. 173	584
19 & 20 VIC. CAP. 16	585
_____ CAP. 17	586
_____ CAP. 18	587
_____ CAP. 35	588
_____ CAP. 36	588
_____ CAP. 37	588
_____ CAP. 38	588
_____ CAP. 39	588
_____ CAP. 49	588
_____ CAP. 60	590
_____ CAP. 61	590
_____ CAP. 62	590
_____ CAP. 63	591
_____ CAP. 64	592
_____ CAP. 65	592
_____ CAP. 66	592
_____ CAP. 67	595
_____ CAP. 68	595
_____ CAP. 80	596
_____ CAP. 81	596
_____ CAP. 94	596
_____ CAP. 95	597
_____ CAP. 96	600
_____ CAP. 97	601

	PAGE.
19 & 20 VIC. CAP. 98	606
_____ CAP. 99	609
_____ CAP. 100	609
_____ CAP. 108	609
_____ CAP. 109	610
_____ CAP. 127	610
_____ CAP. 129	610
_____ CAP. 130	610
_____ CAP. 140	611
20 VIC. CAP. 7	613
_____ CAP. 8	615
_____ CAP. 12	615
_____ CAP. 18	616
_____ CAP. 20	616
_____ CAP. 26	618
_____ CAP. 28	619
_____ CAP. 36	622
_____ CAP. 55	623
_____ CAP. 66	624
_____ CAP. 71	629
_____ CAP. 72	630
_____ CAP. 73	630
_____ CAP. 75	631
_____ CAP. 76	632
_____ CAP. 77	633
_____ CAP. 78	633
_____ CAP. 79	633
_____ CAP. 80	634
_____ CAP. 81	639
_____ CAP. 82	639
_____ CAP. 83	639
_____ CAP. 84	639
_____ CAP. 85	640
_____ CAP. 87	642
_____ CAP. 88	642
_____ CAP. 89	642
_____ CAP. 90	644
_____ CAP. 91	644
_____ CAP. 92	644
_____ CAP. 93	644
_____ CAP. 94	644
_____ CAP. 95	646
_____ CAP. 96	647
_____ CAP. 97	648
_____ CAP. 98	650
_____ CAP. 99	650
_____ CAP. 100	651
_____ CAP. 101	651
_____ CAP. 102	652
_____ CAP. 103	653
_____ CAP. 104	654
_____ CAP. 105	655
_____ CAP. 106	656
_____ CAP. 107	657

	PAGE.		PAGE.
20 VICTORIA, CAP. 108	658	19 & 20 VIC. CAP. 221	662
_____ CAP. 109	658	_____ CAP. 222	662
_____ CAP. 110	658	22 VIC. CAP. 1	663
_____ CAP. 111	659	_____ CAP. 13	663
_____ CAP. 112	659	_____ CAP. 14	664
_____ CAP. 113	659	_____ CAP. 15	664
_____ CAP. 114	659	_____ CAP. 41	665
_____ CAP. 115	659	_____ CAP. 42	666
_____ CAP. 116	660	_____ CAP. 43	667
_____ CAP. 180	660	_____ CAP. 44	667
_____ CAP. 190	660	_____ CAP. 45	668
_____ CAP. 193	660	_____ CAP. 46	669
_____ CAP. 199	660	_____ CAP. 47	670
_____ CAP. 200	660	_____ CAP. 48	670
_____ CAP. 201	660	_____ CAP. 49	670
_____ CAP. 202	661	_____ CAP. 50	670
_____ CAP. 203	661	_____ CAP. 51	670
_____ CAP. 204	661	_____ CAP. 59	671
_____ CAP. 205	661	_____ CAP. 60	671
_____ CAP. 206	661	_____ CAP. 80	671
_____ CAP. 207	661	_____ CAP. 82	671
_____ CAP. 208	661	_____ CAP. 91	677
_____ CAP. 209	661	_____ CAP. 100	683
_____ CAP. 210	662	_____ CAP. 111	686
_____ CAP. 211	662	_____ CAP. 112	688
_____ CAP. 213	662	_____ CAP. 113	688
_____ CAP. 218	662	_____ CAP. 114	688
		_____ CAP. 115	688

THE

MUNICIPAL MANUAL.

H. R. Bowditch Statutes Cap 64 Page 524 -

22 VIC. CAP. 99.

*An Act respecting the Municipal Institutions of Upper
Canada. (a)*

[Assented to 16th August, 1858.]

HER MAJESTY, by and with the advice and consent of the ^{Preamble.} Legislative Council and Assembly of Canada, enacts as follows :

(a) It has been objected to Statutes, both Imperial and Colonial, that the sections are generally loaded with a redundancy of provisos and a no less redundancy of words. For the first, the remedy suggested is distinctness of subjects, short clauses, short sentences, and the avoidance of useless tautology. For the second, the use of the present instead of the future tense, which is a more familiar style of writing, and prevents the frequent use of the word "shall" as a mere auxiliary, expressing the future at one time and obligation or penal consequences at another. So far as the editor can judge, the framers of this act, alive to the nature of such objections, have not failed to supply the appropriate remedies. The absence of proviso upon proviso, and the substitution of short and complete clauses, manifests a laudable desire to avoid all ground of objection on the first head. The use of the present, instead of the future tense throughout the act also attests the anxiety of the framers to avoid obscurity. The propriety of this course depends upon the principle, that in a statute as at common law, the law is supposed to be at all times speaking. The use of the future tense rests upon the principle that a statute speaks at and from the time that it becomes a law, and that so speaking, as it were prospectively, its provisions must be expressed in the future tense. If it be a correct rule that a law speaks at all times as ever present, the correctness of framing it in the present tense cannot be denied, and this, whether the law is to be applied to present or passing, or to past, or to future events. This style pervades some important imperial statutes, such as the 15 & 16 Vic. cap. 44, and the 17 & 18 Vic. cap. 104, both of which are not only modern, but drawn with unexampled care. The effect of reading a statute thus framed, is that the Legislature is regarded as always present—pronouncing the law so long as the law exists—the consequence of which is that the law meets every event to which it is applicable, as the event arises. When it is considered that this act is for the guidance and

B

Commence-
ment of Act.

But see the Statute.
1. This Act shall come into force on the first day of December, one thousand eight hundred and fifty eight. (b)

Municipal
Corporations

EXISTING INSTITUTIONS CONTINUED.

2. The inhabitants of every County, City, Town, Village, Township, Union of Counties, and Union of Townships, incorporated at the time this act takes effect, shall continue to be a body Corporate, and every Police Village then existing shall continue to be a Police Village, with the Municipal boundaries of every such Corporation and Police Village respectively then established. (c)

government of Municipal Councils, themselves law-makers, throughout the length and breadth of Upper Canada, the importance of simplicity and perspicuity cannot be overrated. In the same spirit, we find the old system of numbering sections by Roman numerals abandoned in favor of the plain or Arabic numerals. Even by the most literate the figures "318" are, as symbols of numbers, more easily recognized than "CCCXVIII." The idea conveyed by the one is as it were intuitive to the mind, the other is acquired by a mental process more or less prolonged. In other words, what is known in the one case the moment the eye sees it, in the other is only known by a process of as it were spelling. Though small in itself, this change will be great and beneficial in its consequences, and is highly to be commended. The act and every provision of it is to be deemed remedial. Whether its immediate purport is to direct the doing of any thing which the Legislature deems for the public good, or to prevent or punish the doing of anything which it deems contrary to the public good, the act is to receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of its passing, and according to its true intent, meaning and spirit. (12 Vic. cap. 10, s. 5, sub-s. 28.)

(b) From the moment this act takes effect, several statutes and parts of statutes, inconsistent with it and specifically described, are by express enactment repealed. (See sec. 403.) On every act professing to repeal or interfere with the provisions of a former law, it is a question of construction whether it operate as a total, partial, or temporary repeal. The word "repealed" is not to be taken in an absolute, if it appear upon the whole act to be used in a limited sense. Where several acts of parliament upon the same subject had been totally repealed, and others repealed in part, it was held that it must have been the clear intention of the legislature that only the part of an act particularly pointed out should be repealed. (Dwarris on Statutes, 534.) The law does not favor a repeal by implication. Where however between an old and a later statute or legislative provision there is a plain repugnancy, the latter, as being the last declared intention of the legislature, must be taken to have superseded the former. (Ib. p. 533.)

(c) Under the 175th and 176th sections of the repealed Statute 12 Vic. cap. 81, it was held that the Township Councils and not County Councils were entitled to receive money due to the old District Coun-

2 -
~~2.~~—The Trustees of every Police Village existing when this Act takes effect, shall be deemed the trustees respectively of every such Village as continued under this Act. (cc)

Police
Villages.

3 - *Boroughs, Heads of Councils.*
 NAMES AND GOVERNING BODY.

1.—CORPORATIONS.

4 ~~4.~~—The name of every Body Corporate continued or erected under this Act, shall be *The Corporation of the County, City, Town, Village, Township, or United Counties, or United Townships*, (as the case may be) of (naming the same.) (d)

Names of
Corporations

cils, when the debt was due to the *locality*, as for making roads in a town hip. (*Municipal Council of the United Counties of Northumberland and Durham v. Bull et al*, 8 U. C. Q. B. 375.)

(cc) See sec. 406 *et seq.*

(d) Words making any number of persons a Corporation or body politic and corporate, are construed to vest in the Corporation power to sue and be sued—contract and be contracted with by their corporate name—to have a common seal, and to alter and change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the Corporation is constituted, and to alienate the same at pleasure, and also, when not otherwise provided, to vest in a majority of the members of the Corporation the power to bind the others by their acts, and also to exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them. (12 Vic. cap. 10, sec. 5, subsec. 24; see also 7 Wm. IV. cap. 14, s. 14.)

To consider these powers more in detail.

The *first* in order is “to sue and be sued.” A Municipal Corporation, like an individual, under the limitations involved in its constitution and organization, may have recourse to the Courts of the country to enforce rights and redress wrongs. So one Municipal Corporation may sue another. (*Huron District Council v. London District Council*, 4 U. C. Q. B. 302.) So a Municipal Corporation may be sued for a breach of contract, and in certain cases for wrongful acts not arising out of contract. Thus a Municipal Corporation may be sued for malfeasance, for instance, illegally obstructing a drain or water course, so as to injure the owner or owners of land adjoining. To support an action against a Municipal Corporation of the nature suggested, although it is not necessary to show any authority under seal to the person or persons who under the supposed instructions of the Corporation actually did the wrongful act, something must be shewn to connect the Corporation as a body with the doing of the act. (*Farrell v. The Mayor and Town Council of London*, 12 U. C. Q. B. 343.) If the Corporation had a right to do that which they are charged to have wrongfully done, it seems they may plead in general terms that they did the act complained of as they lawfully might for reasons assigned. (*Brown v. The Municipal Council of Sarnia*, 11 U. C. Q. B. 87.)

Name of
Provisional
Corporations

5.—The inhabitants of every Junior County upon a Provisional Council being or having been appointed for

The *second* power is to “contract and be contracted with.” It is a principle applicable to all Corporations, that they must contract under seal. To this principle there are some exceptions. One of some moment has been created with regard to Municipal Corporations. It is that such a Corporation is liable to be sued in an action of debt on simple contract for the price of goods furnished, or labor done at their request and accepted by them. (*Fetterly v. The Municipality of Russell and Cambridge*, 14 U. C. Q. B. 433.) Though in such a case there be no contract under seal, the law implies an undertaking by a Corporation to pay for labor and materials employed in their service, and of which they have accepted and are enjoying the benefit, provided the purpose for which the labor and materials have been applied is one clearly within the legitimate object of their charter. (*Bartlett v. The Municipality of Amherstburgh*, 14 U. C. Q. B. 152.) The exception, however, does not extend to work, &c., to be done, but is confined to work in fact done and accepted. Thus no man can sue a Municipal Corporation for not allowing him to make, for example, a road unless he show a contract under seal binding the corporation to allow him to do that which he says they wrongfully prevent. (*1b*) An individual dealing with a corporation, through its council or the members of the governing body, is bound to notice the objects and limits of their powers and the manner in which those powers are to be exercised, and it is of much consequence that it should be borne in mind that their acts when beyond the scope of their authority or done in a manner unauthorized, are in general nugatory and not binding on the corporation. (*Ramsay et al v. The Western District Council*, 4 U. C. Q. B. 374.) No action can be sustained for a breach of duty against the head of a Corporation in not applying the seal to make a contract between the Corporation and an individual, founded on a refusal which (if there had been a previous valid contract) would have constituted a breach of it; in other words, there cannot be a remedy against the head of a Corporation, equivalent to a remedy on the contract against the Corporation, had the contract been duly made so as to create a valid and binding agreement. (*Fair v. Moore*, 3 U.C.C.P. 484.) See further, notes to sec. 221 and following sections.

The powers of a Municipal Corporation to have a common seal, &c., to acquire and hold personal property or moveables, &c., and alienate the same at pleasure are too well known, and too thoroughly understood to need comment in this place. The right of a corporation to acquire, hold and alienate real estate, generally depends upon the special provisions of the statute or charter. The power, when not otherwise provided, of a majority to bind the others by their acts, and also the exemption of individual members of the Corporation from personal responsibility will engage attention hereafter.

The next subject which it is proposed to consider is the corporate name of the Municipal Corporation. It is *The Corporation of the County, City, Town, Village, Township, or United Counties, or United Townships* (as the case may be) of (naming them). Thus, “*The Corporation of (the City of Toronto),*” and not as heretofore “*The Mayor, Aldermen, and Commonalty of the City of Toronto.*” So “*The Corporation of (the County of Middlesex),*” and not as heretofore “*The*

the County, shall be a Body Corporate under the name of *The Provisional Corporation of the County of* (naming it.)

6.—The powers of every Body Corporate under this Act, shall be exercised by the Council thereof. The Councils to govern.

2.—POLICE VILLAGES.

7.—The Police regulations of every Police Village, shall be enforced through the Police Trustees. Trustees in Police Villages to govern.

NEW MUNICIPALITIES.

COUNTIES AND TOWNSHIPS.

8.—The inhabitants of every County or Union of Counties erected by Proclamation into an independent County or Union of Counties, and (e) of every Township or Union of Townships erected into an independent Township or Union of Townships, and of every locality erected into a City, Town, or Incorporated Village, and of every County or Township separated from any Incorporated Union of Counties or Townships, and of every County or Township, or of the Counties or Townships if more than one, remaining of the Union after the separation, being so erected or separated after this Act takes effect (f), shall be a Body Corporate under this Act. Extension of Corporate Municipalities.

NEW POLICE VILLAGES.

9.—On the Petition of any of the inhabitants of an unincorporated Village, the Council or Councils of the County or New Police Villages.

Municipal Council or Municipality of the County of Middlesex, &c.” The proper corporate name of a Municipal Corporation ought to be used on all occasions, and in all places. But it has been decided that a By-law of a Municipal Council is valid if it appear on the face of it to have been enacted by a Municipal body having authority to make the By-law under the Municipal Laws. (*In re Haukins v. The Municipal Council of Huron, Perth, and Bruce*, 2 U. C. C. P. 72: *Fisher v. The Municipal Council of Vaughan*, 10 U. C. Q. B. 492: *In re Barclay and the Municipal Council of Darlington*, 11 U. C. Q. B. 470.) It was however held differently as to the intitling of a rule in a proceeding against a Municipal Corporation. (*In re Sams v. The Corporation of Toronto*, 9 U. C. Q. B. 181.) Now that uniformity in name has been established, it is apprehended the Courts will be less inclined than ever to overlook laxness in the description of corporate names.

(e) In reading this section, the words “the inhabitants” are to be understood as repeated in each succeeding clause, that is, before the words “of every,” wherever they occur.

(f) Section 2 applies to existing corporations, but this section seems to be prospective only, that is, applicable only to Municipalities *herafter* to be erected, and applies to them by whatever authority created.

Counties within which the Village is situate, may, by By-law, erect the same into a Police Village, and assign thereto such limits as may seem expedient. (g)

NEW INCORPORATED VILLAGES.

10.—When the census returns of an unincorporated Village (h) with its immediate neighbourhood, taken under the direction of the Council or Councils of the County or Counties in which the Village and its neighbourhood are situate, shew that the same contain over seven hundred and fifty inhabitants, and when the residences of such inhabitants are sufficiently near to form an incorporated Village, then, on petition by not less than one hundred resident freeholders and householders of the Village and neighbourhood, the Council or Councils of the County or Counties in which the Village and neighbourhood are situate shall, by By-law, erect the Village and neighbourhood into an Incorporated Village, apart from the Township or Townships in which the same are situate, by a name and with boundaries to be respectively declared in the By-law, and shall name in the By-law the place for holding the first Election, and the Returning Officer who is to hold the same.

When population 750, County Council may by By-law incorporate new Villages and name place for 1st election and returning officer.

11.—When the newly incorporated Village lies within two or more Counties, the Councils of the Counties shall, by By-law, annex the Village to one of the Counties; and if within six calendar months after the petitions for the incorporation of the Village are presented, the Councils do not agree to which County the Village shall be annexed, the Wardens of the Counties shall memorialize the Governor in Council, setting forth the grounds of difference between the Councils; and thereupon the Governor, shall by Proclamation, annex the Village to one of such Counties. (i)

When the Village lies within two counties, how to be annexed to one of them by the Councils or Governor.

12.—In case the Wardens do not within one month next after the expiration of the six months memorialize the Governor as aforesaid, then one hundred of the freeholders and householders on the census list may petition the Governor to

When by the Governor.

(g) This clause of course does not apply to Villages either incorporated or already made Police Villages.

(h) *Unincorporated Village*—An expression which includes Police Villages, which Villages are not corporate bodies, like other Municipalities. (Sec. 402, subsec. 1.)

(i) The annexation is in the first instance left to the County Councils jointly. If they do not pass the necessary by-law within six months from the time the petition for incorporation is presented, the Wardens are to notify the Governor in Council thereof, and he is then to cause the annexation by proclamation.

settle the matter, and thereupon the Governor shall, by Proclamation, annex the incorporated Village to one of the said Counties. (*j*)

13.—In case the Council of an Incorporated Village petitions the Governor to add to the boundaries thereof, the Governor may, by Proclamation, add to the Village any part of the localities adjacent, which from the proximity of streets or buildings therein, or the probable future exigencies of the Village, it may seem desirable to add thereto.

Additions to
Villages by
Governor.

ERECLION OF VILLAGES INTO TOWNS, AND TOWNS INTO CITIES.

14.—A census of any Town or Incorporated Village may at any time be taken under the authority of a By-law of the Council thereof. (*k*)

Towns and
Cities how
formed.

15.—When it appears by the census return taken under any Act of Parliament (*kk*), or under any such By-law (*l*), that a Town contains over fifteen thousand inhabitants, the Town may be erected into a City; And when it appears by the return that an Incorporated Village contains over three thousand inhabitants, the Village may be erected into a Town: But the change shall be made by means of and subject to the following proceedings and conditions:

Town containing over fifteen thousand Inhabitants may be made a City; and Village containing over three thousand a Town.

Firstly—In case the Council of the Town or Village, for three months after the Census return, inserts a notice in some newspaper published in the Town or Village, or if no newspaper is published therein, then in case the Council has for three months posted up a notice in four of the most public places in the Town or Village, and inserted the same in a newspaper published in the County in which the Town or Village is situate, setting forth in the notice the intention of the Council to apply for the erection of the Town into a City, or of the Village into a Town, and stating the limits intended to be included therein;

1st—Notice
to be given.

(*j*) In case of the neglect or refusal of the Wardens to do as in the last section provided, a remedy is here given.

(*k*) This is a new provision, adopted in order to facilitate the formation of Villages into Towns, or Towns into Cities, whenever the population is sufficiently increased. The 20 Vic. cap. 67, which is now repealed, applied only to the incorporation of Villages, and not to the advancement of Towns to Cities.

(*kk*) The 14 & 15 Vic. cap. 49, providing for the taking of a periodical census, is here referred to.

(*l*) Any such By-law, i. e., a By-law passed pursuant to the last section.

2nd—Proof
of publica-
tion of notice
and of census

Secondly—And in case the Council applying, proves the publication to the Governor in Council; and procures the census returns to be certified to him under the signature of the Head of the Corporation and under the Corporate seal; (*m*)

3rd—Procla-
mation in
case of a Vil-
lage.

Thirdly—Then in the case of a Village, the Governor may, by Proclamation, erect the Village into a Town by a name to be given thereto in the Proclamation; (*n*)

4th—Exist-
ing debts to
be adjusted.

Fourthly—And in case the application is for the erection of a Town into a City,—if the Town has moreover paid to the County of which it formed part, such portion, if any, of the debts of the County as may be just (*o*), or if the Council of the Town has agreed with the Council of the County as to the amount to be so paid, and the periods of payment with interest from the time of the erection of the new City, or in case of disagreement if the same has been determined (as it shall be) by arbitration under this Act (*p*); and if the Council proves to the Governor in Council the payment, agreement or arbitration; (*q*)

5th—Govern-
or may pro-
claim such
City or Town

Fifthly—Then the Governor may by Proclamation erect the Town into a City, by a name to be given thereto in the Proclamation. (*qq*)

16.—The Governor may include in the new Town or City, such portions of any Township or Townships adjacent thereto, and within the limits mentioned in the aforesaid notice (*r*)

(*m*) This and the preceding subsection apply both to Towns and incorporated Villages.

(*n*) A distinction is here to be observed between Towns and Incorporated Villages. This subsection applies to Incorporated Villages only.

(*o*) This subsection applies to Towns only. It is an additional condition precedent to the application. It is rendered necessary in the case of a Town, as distinguished from a Village, because when a town becomes a City it is no longer, like a Village becoming a Town, still within the jurisdiction of the Municipal Council of the County, as respects debts and rates and representation by Reeves in the County Council.

(*p*) See sec. 336, *et seq.*

(*q*) Three methods are provided. *First*, actual payment. *Second*, a mutual agreement as to the amount and time of payment. *Third*, an arbitration in case of disagreement.

(*qq*) The first and second subsections contain the conditions as to Villages becoming Towns—the first, second and fourth, as to Towns becoming Cities.

(*r*) *Aforesaid Notice.* The notice intended is that mentioned at the end of subsection 1 of the last section, and shows how important it

as, from the proximity of streets or buildings, or the probable future exigencies of the new Town or City, the Governor in Council may consider it desirable to attach thereto.

17. — The Governor may divide the new Town or City Wards. into Wards with appropriate names and boundaries, but no Town shall have less than three Wards, and no Ward less than five hundred inhabitants. (*rr*)

18. — In case any tract of land so attached to the Town Lands detached from Counties. or City belonged to another County, the same shall thenceforward for all purposes cease to belong to such other County, and shall belong to the same County as the rest of the Town or City. (*s*)

NEW DIVISION OF WARDS IN CITIES AND TOWNS.

19. — In case two-thirds of the Members of the Council New division of Wards in Cities and Towns. of a City or Town do in Council (*ss*) before the Fifteenth day of July in any year, (*t*) pass a resolution (*u*) affirming the expediency of a new division into Wards being made of the City or Town or of a part of the same, (*v*) either within the existing limits or with the addition of any part of the localities adjacent, which from the proximity of streets or buildings therein, or the probable future exigencies of the City or Town, it may seem desirable to add thereto respectively, (*w*) the Governor may by Proclamation divide the City or Town, or such part

is for the notice to express clearly the limits of the Town or City as proposed by the Council.

(*rr*) Villages are not to be divided.

(*s*) Towns and Cities for some purposes continue parts of the County in which situate, and this section provides for the annexation of tracts detached under the foregoing clauses.

(*ss*) This it is apprehended means a majority of two-thirds of the whole number of Councillors, and not merely two-thirds of a less number present at the meeting, though the number present be sufficient to form a quorum for ordinary business.

(*t*) It ought to be observed that the time is here expressly limited. If the act authorised be done after the time limited, it would be a nullity.

(*u*) A Municipal Council ordinarily does public acts through the instrumentality of a formal by-law. No by-law is however here necessary. A formal resolution is all that is required. One difference between a by-law and a resolution is that the former must bear the corporate seal and the latter need not do so.

(*v*) A change in one or more Wards of a City or Town, without disturbing the remaining Wards, is contemplated.

(*w*) This admits of tracts of adjacent Townships being added to Cities or Towns and annexed to specific Wards.

thereof into Wards, as may seem expedient, and may add to the City or Town any part of the adjacent Township or Townships, which the Governor in Council on the grounds aforesaid considers it desirable to attach thereto. (x)

LIBERTIES IN CITIES ABOLISHED.

20.—There shall be no Liberties or outer Wards in Cities. (y)

EXISTING BY-LAWS CONTINUED.

By-laws to
continue in
Cities, Towns
and Villages.

When not to
be repealed.

21.—When a Village has been incorporated, or an incorporated Village or Town has been with or without additional area, erected into a Town or City, the By-laws in force therein respectively shall continue in force until repealed or altered by the Council of the new Corporation. (z) But no such By-laws shall be repealed or altered unless they could have been or can be legally repealed or altered by the Council which passed the same. (a)

When the
limits of a
Municipality
are extended

22.—When an addition is made to the limits of a Municipality, the By-laws of the Municipality shall extend to the additional limits, and the By-laws of the Municipality from which the same has been detached shall cease to apply to the addition, except only By-laws relating to Roads and streets,

(x) It would seem to be in the discretion of the Governor to fix or define the Wards, or make any necessary alterations therein, but it is probable that the wishes of the Town or City Council would be complied with by him. It may therefore be important that the resolution should explicitly state the changes or additions deemed expedient by the Council. No published or other notice of the intended application is required.

(y) Under former statutes, there were Liberties and Outer Wards attached to Cities; but it is believed that all such have been, before the passing of this statute, incorporated in the Cities, and made Inner Wards thereof, and it is not deemed expedient to authorize either Liberties or Outer Wards for the future.

(z) This section relates to Villages newly incorporated, to Villages already incorporated made Towns, and to Towns made Cities. An unincorporated Village is subject to the jurisdiction and by-laws of the Township and County Councils. Villages and Towns incorporated are themselves Municipalities, independent of Township Councils. The design of this section is to continue the by-laws of the Township Council in a Village newly incorporated, until the by-laws are altered by the Council of the Village. So also the by-laws of an incorporated Village when it becomes a Town, and of a Town when it becomes a City, are continued until duly repealed.

(a) The object of this part of the section is to prohibit the repeal by the new Council of by-laws securing the payment of debentures, &c., which could not be repealed by the old Municipal Council.

and these shall remain in force until repealed by By-laws of the Municipality added to. (*b*)

LIABILITY TO DEBTS TO CONTINUE.

23.—In case of the formation of an incorporated Village, or of the erection of an incorporated Village into a Town, or of a Town into a City, the Village, Town or City, shall remain liable to all the debts and liabilities to which the Village or Town was previously liable, in like manner as if the same had been contracted or incurred by the new Municipality. (*c*)

Liability to debts to continue.

24.— After an addition has been made to a Village, Town or City, the Village Town or City shall pay to the Township or County from which the additional tract has been taken, such part (if any) of the debts of the Township or County as may be just; (*d*) and in case the Councils do not within three months after the first meeting of the Municipality to which the addition has been made, agree as to the sum

And in case of an extension of limits.

(*b*) The object of this section is to extend the existing by-laws of a Municipality to tracts of land added to the Municipality after the passing of the by-laws, and to indicate the exemption of such tracts of land from the operation of the by-laws of the Municipality to which they formerly belonged. Even the operation of by-laws of the old Municipality creating debts, &c., are thus got rid of; but by-laws relating to roads or streets, within the limits of such tracts, are continued until repealed by the Council acquiring jurisdiction over the same. With regard to by-laws creating debt, secs. 23 and 24 of this act ought to be read in connexion with the one here annotated.

(*c*) This strengthens the provisions contained in previous sections for the protection of creditors. The first line of the section appears to be new and now for the first time enacted. Formerly, Junior Townships and Junior Counties only after separation were still made liable to existing debts. The present section extends the liability to a newly erected Incorporated Village, i. e. renders it still liable for debts of the Township at the time of the incorporation of the Village. A Village made a Town of course remains subject to its debts, being in effect the same Municipality advanced to a Town. So if a Town be erected into a City. The effect of this section is that a village newly incorporated remains liable to pre-existing township debts, and towns and cities respectively remain liable for the debts contracted by them while they were incorporated villages or towns. It is apprehended that with regard to Villages the section is not retrospective, that is, does not apply to Villages formed before the act takes effect.

(*d*) The effect of sec. 22 is to exempt tracts of land annexed from the debts of the Municipality to which they formerly belonged; and the effect of this section, read in connexion with it, is to render the Municipality to which the annexation is made liable to compensate the former Municipality a reasonable proportion of the pre-existing debts.

to be paid, or as to the time of payment thereof, the matter shall be settled by arbitration under this Act. (*e*)

COUNCILS AND OFFICERS TO CONTINUE.

Former Councils and Officers to exercise jurisdiction over new Municipalities, &c., until new Councils are organized.

25.—When any place is erected into an incorporated Village, or an incorporated Village into a Town, or a Town into a City, the Council and the members thereof having authority in the place or Municipality immediately before such erection, shall, until the Council for the newly erected Corporation is organised, continue to have the same powers as before; and all other Officers and Servants of the place or Municipality shall, until dismissed or until successors are appointed, continue in their respective offices, with the same powers, duties and liabilities as before. (*f*)

WITHDRAWAL OF TOWNS FROM THE JURISDICTION OF THE COUNTY.

Towns may be withdrawn from jurisdiction of County by By-laws on certain conditions.

26.—The Council of any Town may pass a By-law to withdraw the Town from the jurisdiction of the Council of the County within which the town is situated, upon obtaining the assent of the electors of the Town to the By-law in manner provided by this Act, (*g*) subject to the following provisions and conditions:

Amount to be paid by Town towards expenses of administration of justice to be settled.

1.—After the final passing of the By-law, the amount which the Town shall pay to the County for the expenses of the administration of Justice and the use of the Gaol, as well as for the then existing debt of the County, if not mutually agreed upon, shall be ascertained by arbitration under this Act; (*h*) and the agreement or award shall distinguish the amounts to be annually paid for the said expenses, and for the then

(*e*) Resort is to be had to arbitration only in case the Councils do not, within three months after the first meeting of the Municipality to which the addition has been made, agree as to the sum to be paid, or as to the time of payment. As to the arbitration in case of disagreement, see sec. 336 *et seq.*

(*f*) This continues the jurisdiction of the Township Council and officers, &c., over a newly incorporated Village, and so of the Council and officers of Villages and Towns respectively, until the organization of the first Council of the new Municipality.

(*g*) Cities are not subject to the jurisdiction of County Councils, but are as it were Counties of themselves. It is not so with Towns. The object of this section is to enable Towns to withdraw from the jurisdiction of County Councils. The provision is a new one. In the event of it being used, the conditions expressed in the subsections should be carefully observed.

(*h*) Arbitration is to take place in the event of disagreement. See sec. 336 *et seq.*

debt of the County, and the number of years the payments for the debt are to continue; (*i*)

2.—In adjusting their award, the arbitrators shall, among other things, take into consideration the amount previously paid by the Town, or which the town may be then liable to pay, for the construction of roads or bridges by the County, without the limits of the town; and also what the County may have paid, or be liable to pay, for the construction of roads or bridges within the Town; and they shall also ascertain and allow to the Town the value of its interest in all County property except roads and bridges within the Town; (*j*)

Matters to be considered in settling the same.

3.—When the agreement or award has been made, a copy of the same and of the By-law, duly verified by affidavit, shall be transmitted to the Governor, who shall thereupon issue his proclamation withdrawing the Town from the jurisdiction of the Council of the County; (*k*)

Copy of agreement to be sent to the Governor.

Proclamation.

4.—After the proclamation has been issued, the offices of Reeve and Deputy Reeve of the Town shall cease; and no By-law of the Council of the County shall have any force in the Town, except so far as relates to the care of the Court House and Gaol, and other County property in the Town; and the Town shall not thereafter be liable to the County for or be obliged to pay to the County, or into the County Treasury, any money for County debts or other purposes, except such sums as may be agreed upon or awarded as aforesaid; (*l*)

Effect of such Proclamation.

5.—In case after the agreement or award the Council of the County ceases to pay jurymen for their attendance at Court, or passes a By-law to pay them, if no such By-law existed at the time of the agreement or award, the agreement or award, so far as the same relates to the amount thereby agreed or directed to be paid by the Town to the County for jury expenses, shall cease and be void, and a new agreement or award shall

As to payment of Jurors.

(*i*) As to By-Laws generally, see sec. 222 *et seq.*

(*j*) The rule laid down is a fair one. Where the Town has contributed towards building roads or bridges outside of its limits, credit is to be given; but when the roads, &c., are within the limits, it is to be debited with a fair proportion of the outlay. In addition, the Town is to receive credit for the value of its interests in all County property, except roads and bridges within the Town.

(*k*) There is no time limited in any year within which the application to the Governor General is to be made.

(*l*) See note *k* ante.

be made, to ascertain what amount shall thereafter be paid by the Town to the County for such purposes ; (*m*)

New agree-
ment after
five years.

6.—After the lapse of five years from the time of the agreement or award, or such shorter time as may be stated in the agreement or award, a new agreement or a new award may be made, to ascertain the amount to be paid by the Town to the County for the expenses of the administration of Justice ; (*n*)

Property
after with-
drawal.

7.—After the withdrawal of a town from the County, all property theretofore owned by the County, except Roads and Bridges within the Town, shall remain the property of the County. (*o*)

TOWNSHIPS.

ERECTION OF NEW TOWNSHIPS.

New Town-
ships beyond
the limits of
Incorporat-
ed Counties
may be
attached
thereto.

27.—In case a Township is laid out by the Crown in territory forming no part of an Incorporated County, the Governor may by Proclamation erect the township, or two or more of such Townships lying adjacent to one another, into an Incorporated Township or Union of Townships, and annex the same to any adjacent Incorporated County ; (*p*) and the proclamation shall appoint the Returning Officer who is to hold, and the place for holding, the first Election in the Township or Union of Townships. (*q*)

SEPARATION OF UNITED TOWNSHIPS.

Junior
Township
containing
100 free-
holders, &c.,
to become a
separate Mu-
nicipality.

28.—When a Junior Township of an incorporated Union of Townships has one hundred resident freeholders and householders (*r*) on the assessment roll as last finally revised and

(*m*) The last Jury Act makes it incumbent on County Councils to provide for the payment of Jurors. (22 Vic. c. 100, s. 138 *et seq.*)

(*n*) This is not to be understood as referring merely to the expenses of the administration of *criminal* justice ; for they are to be defrayed by the Province. (9 Vic. cap. 58.)

(*o*) This is a fair result of the preceding subsections.

(*p*) The provision contained in this section is entirely new. Before the passing of this act no Township could, for the purposes of election and municipal government, be organized until it contained a certain population. Here no such requirement is made. The Governor is enabled by proclamation to incorporate new Townships, separately or in unions.

(*q*) As to Elections, see sec. 81 and following sections.

(*r*) *Resident freeholders and householders.* There must be at least one hundred resident-, and these residents must be either freeholders or householders, it matters not in what proportion. Females are not in terms excluded, though it is doubtful whether the law intends them to be included. (See sec. 75.)

passed, (s) such Township shall, upon the first day of January then next thereafter, (t) become separated from the Union. (u)

29.—In case a Junior Township had at least fifty but less than one hundred resident freeholders and householders (v) on the last revised assessment roll, (w) and two-thirds of the resident freeholders and householders of the Township, petition the Council of the County to separate the Township from the Union to which it belongs; (x) and in case the Council considers the Township to be so situated, with reference to streams or other natural obstructions, that its inhabitants cannot conveniently be united with the inhabitants of an adjoining Township for Municipal purposes,—the Council may by By-law, separate the same from the Union; (y) and the By-law shall name the Returning Officer who is to hold, and the place for holding, the first Election under the same. (z)

When Junior Township containing less than 100, but exceeding 50, it may be separated and how.

ANNEXATION OF GORES.

30.—The Governor may, by Proclamation, annex to any Township, or partly to each of more Townships than one, any Gore or small tract of land lying adjacent thereto and not forming part of any Township, and such Gore or tract shall thenceforward for all purposes form part of the Township to which it is annexed. (a)

The Governor may annex Gores to adjacent Townships.

(s) The assessment roll is under the Assessment Act revised and finally passed by the Court of Appeal constituted by that Act. (16 Vic. cap. 182, s. 30.) The roll so revised and passed is the one here mentioned.

(t) The day of separation is postponed until the new year, that is, till the period is at hand for the yearly election of Municipal Councillors. (See sec. 87.)

(u) When the Junior Township attains the required population, the separation is to take place *by operation of law*.

(v) See note *r* to the preceding section.

(w) See note *s* to same.

(x) The petition may, under the circumstances stated, be made at any time of the year.

(y) The power of the County Council to interfere is only when it considers the Township to be so situated with reference to streams or other natural obstructions that its inhabitants cannot conveniently be united for municipal purposes with the inhabitants of an adjoining township. (See sec. 31.)

(z) It is to be observed that the By-law is to fix the place for holding the first election of Councillors and to name the Returning Officer, neither of which is mentioned in the preceding section. The time is however fixed by sec. 82, subsec. 5. (See further, sec. 87.)

(a) This appears to be taken from statute 12 Vic. cap. 11, sec. 2, which authorized such annexation for all purposes, including of

ANNEXATION OF NEW TOWNSHIPS.

New Townships, &c., within the limits of Incorporated Counties, to be united to adjacent Townships, and how.

31.—In case a Township is laid out by the Crown in an incorporated County or Union of Counties; or in case there is any Township therein not incorporated and not belonging to an incorporated Union of Townships,—the Council of the County or United Counties shall, by By-law, unite such Township for Municipal purposes, to some adjacent incorporated Township or Union of Townships in the same County, or Union of Counties, and if such adjacent Township or adjacent Union is divided into Wards, then also to one Ward or partly to each of two or more Wards thereof. (b)

Townships not incorporated or united may be formed into unions, and how.

32.—In case of there being at any time in an incorporated County or Union of Counties two or more adjacent Townships not incorporated and not belonging to an incorporated Union of Townships; and in case such adjacent Townships have together not less than one hundred resident freeholders and householders within the same,—the Council of the County or Union of Counties may, by By-law, form such Townships into an independent Union of Townships. (c)

Townships in different Counties.

33.—In case the United Townships are in different Counties, the By-law shall cease to be in force whenever the union of the Counties is dissolved. (d)

SENIORITY OF TOWNSHIPS.

34.—Every Proclamation (e) or By-law forming a Union

course municipal purposes. The Proclamation must it is presumed, as usual in the case of Crown Proclamations, be under the Great Seal of the Province. (*Keyley v. Manning*, Cro. Car. 180.)

(b) There are in some Counties tracts of land not surveyed or laid out in Townships, and this section requires the County Council of any such County to unite new townships when laid out with some adjacent Township or Townships, in order that the inhabitants may at once enjoy municipal rights and be subject to municipal liabilities.

(c) Under this section, Unions may be formed of two or more *new* townships, instead of annexing them to *old* townships. This can only be done when the joint population of resident freeholders and householders is not less in number than one hundred.

(d) No case can arise under this section, unless the Union have been made by the Council of United Counties of Townships in different Counties of the Union. When such has been done, and the Counties afterwards become separated, provision is made for the separation of the United Townships. The fact that the By-law is in such an event to “cease to be in force” as near as may be restores the Townships to the situation in which they were before the By-law passed.

(e) For instance, under sec. 27.

of Townships (*f*) shall designate the order of seniority of the Townships so united, and the Townships of the Union shall be classed in the By-law according to the relative number of freeholders and householders on the last revised assessment-roll. (*g*)

Seniority of Townships how regulated.

COUNTIES.

NEW COUNTIES.

35.—The Governor may, by Proclamation, form into a new County, any new Townships not within the limits of an Incorporated County, and may include in the new County one or more unincorporated Townships or other adjacent unorganized Territory, (defining the limits thereof) not being within an Incorporated County, and may annex the new County to any adjacent Incorporated County; or in case there is no adjacent Incorporated County, or in case the Governor in Council considers the new County, or any number of such new Counties lying adjacent to one another and not belonging to an Incorporated Union, so situated that the Inhabitants cannot conveniently be united with the inhabitants of an adjoining Incorporated County for Municipal purposes, the Governor may, by the Proclamation, erect the new County, or new adjacent Counties, into an independent County or Union of Counties for the said purposes, and the Proclamation shall name the new County or Counties. (*h*)

New Counties how formed by proclamation and annexed or united.

SENIORITY OF.

36.—In every Union of Counties, the County in which the County Court House and Gaol are situate, shall be the Senior County, and the other County or Counties of the Union shall be the Junior County or Counties thereof. (*i*)

Seniority of United Counties how regulated.

LAWS APPLICABLE TO.

37.—During the Union of Counties, all Laws applicable

(*f*) For instance, under secs. 29 or 31.

(*g*) The order of seniority of United Townships is to be declared in the Proclamation or By-law, as the case may be, and the seniority is to be governed by population, so that the more populous Township is to be the senior.

(*h*) The provisions of this section are new. They facilitate the formation of Counties and Unions of Counties in newly organized tracts of land, without the necessity of express Acts of Parliament.

(*i*) There is to be not only seniority among United Townships, but seniority among United Counties. While among the former seniority is to be determined by population, among the latter it is to be determined by the situation of the County Court House and Gaol. This was the old law.

Laws applicable to Unions of Counties.

to Counties (except as to representation in Parliament and Registration of Titles) (*j*) shall apply to the Union as if the same formed but one County.

VENUE IN.

Venue how laid in Unions of Counties.

38.—In the case of United Counties, the Venue in any Judicial proceedings shall be laid in the proper County of the Union (naming it) and describing it as one of the United Counties of —, and in such case the Jury for the trial of any issue, Civil or Criminal, or the assessment of any damages, shall be summoned from the body of the United Counties. (*k*)

ERECTION OF PROVISIONAL CORPORATIONS AND SEPARATION OF JUNIOR COUNTIES.

PRESIDING MEMBER—FIRST MEETING—COUNTY TOWN.

Provisional separation of United Counties by proclamation appointing place of meeting and presiding officer.

39.—When the Census Returns taken under an Act of Parliament (*l*) or under the authority of a By-law of the Council of any United Counties, (*m*) show that the Junior County of the Union contains not less than fifteen thousand inhabitants, then, if a majority of the Reeves and Deputy Reeves of such County do, in the month of February in two successive years, pass a resolution affirming the expediency of the County being separated from the Union; and if in the month of February

(*j*) By the 9 Vic. cap. 34, sec. 4, it is enacted that there shall be a Registrar appointed for each and every County in Upper Canada. By the 12 Vic. cap. 78, sec. 19, and 12 Vic. cap. 79, sec. 6, that upon the disuniting of a Junior County from a Union of Counties there shall be a separate Registry of Titles for such County, as for other Counties generally in Upper Canada. By the 14 & 15 Vic. cap. 5, sec. 2, that each County entitled to a Representative in Parliament shall have a separate Registry Office for the registration of titles, and that Registrars shall be appointed accordingly. By the 22 Vic. cap. 95, provision is also made for the establishment of separate Registry Offices in Cities, Junior Counties before separation, and Ridings of Counties.

(*k*) A writ of summons was sued out before the separation of the County of Ontario from the United Counties of York and Peel, directing defendant to appear in the United Counties of York, Ontario and Peel. It was not served until after the separation, and the venue in the declaration was laid in the three United Counties. The defendant thereupon demurred. *Held*, not a frivolous demurrer. (*Plaxton et al v. Smith*, 1 U. C. Prac. Rep. 228.)

(*l*) For instance, statute 14 & 15 Vic. cap. 49, which provides for the taking of a periodical census.

(*m*) The census for the purpose mentioned in this section to be taken under the authority of a By-law of the Council is something new. The only census heretofore receivable in cases within this section was the periodical one noticed in the preceding note.

in the following or third year, a majority of the Reeves transmit to the Governor in Council a petition for the separation, ⁽ⁿ⁾ and if the Governor deems the circumstances of the Junior County such as to call for a separate establishment of Courts and other County institutions, he may, by Proclamation setting forth those facts, constitute the Reeves and Deputy Reeves for the County a Provisional Council; and in the Proclamation appoint a time and place for the first meeting of the Council, and therein name one of its Members to preside at the meeting, and also, therein determine the place for and the name of the County Town. ^(o)

40.—The Member so appointed shall preside in the Council until a Provisional Warden has been elected by the Council from among the members thereof. Who to preside till Warden chosen.

PROVISIONAL OFFICERS.

41.—Every provisional Council shall from time to time appoint a Provisional Warden, a Provisional Treasurer, and such other Provisional Officers for the County, as the Council deems necessary. Appointment of Provisional Warden, &c.

42.—The Provisional Warden, shall hold office for the Municipal year for which he is elected. His terms of office;

43.—The Treasurer and other officers so appointed shall hold Office until removed by the Council. And of Treasurer, &c.

PURCHASE OF PROPERTY.

44.—Every Provisional Council may acquire the necessary property at the County Town of the Junior County on which to erect a Court House and Gaol, and may erect a Court-House and Gaol thereon, adapted to the wants of the County and in conformity with any statutory or other rules and regulations respecting such buildings, and may pass By-laws, for such purposes. Provisional Councils may acquire lands for gaols and court houses.

POWERS OF THE UNION NOT TO BE INTERFERED WITH.

45.—The powers of a Provisional Council shall not interfere with the powers of the Council of the Union, and any money raised by the Provisional Council in the Junior County shall be independent of the money raised therein by the Council of the Union. Powers of Provisional Council not to interfere with powers of Union.

⁽ⁿ⁾ Under the 12 Vic. cap 78, sec. 10, a petition of at least two-thirds of the Reeves was necessary.

^(o) The provision made for determining the County Town will it is hoped be found sufficient to avoid the difficulties and delays that have been heretofore experienced in such cases.

DEBTS OF THE UNION.

Agreement
as to debts
upon dissol-
ution.

46.—After a Provisional Council has procured the necessary property and erected thereon the proper buildings for a Court House and Gaol, the Council may enter into an agreement with the Senior or remaining County or Counties for payment to such County or Counties of any part of the debts of the Union as may be just, and for determining the amount to be so paid and the times for payment. (*p*)

When Provi-
sional Coun-
cillors shall
not vote.

47.—No Member of the Provincial Council shall vote or take any part in the Council of the Union on any question affecting such agreement or the negotiation therefor. (*a*)

Arbitrament

48.—In case the Councils do not then agree as to the amount or periods of payment, the matter shall be settled between them by Arbitration under this Act; (*b*) And the Junior or County shall pay to the Senior or remaining County or Counties of the Union the amount so agreed upon or settled, (*c*) and such amount shall bear interest from the day on which the Union is dissolved, (*d*) and shall be provided for, like other debts, by the Council of the Junior County after being separated. (*e*)

Payment of
debts upon
dissolution.

Debt to bear
inter. st.

GOVERNOR TO APPOINT JUDGES.

Terms and
time of sepa-
ration.

49.—After the sum to be paid by the Junior County to the Senior or remaining County or Counties has been paid or ascertained by agreement or arbitration, the Governor in

(*p*) It ought to be observed that the gaol and court-house are to be erected before an agreement respecting the debts of the Union is to be entered into, and then and not till then the County about to be separated is to arrange with the remaining County or Counties for a due proportion of the joint debts. In case the Councils do not agree as to the amount or periods of payment, they are to arbitrate. (See sec. 48.)

(*a*) The reason is plain. Though the members of the Provisional Council are also members of the Council of the Union, yet in this negotiation, the matter lies between the Provisional Council on the one hand and the Council of the Union on the other. And the Provisional Council being for this purpose an independent and interested body, it follows that the interest of the Union, which is virtually the interest of the senior or remaining County or Counties should be protected by the Councillors of the senior or remaining County or Counties.

(*b*) See sec. 336, *et seq.*

(*c*) The sum to be paid by the junior to the senior or remaining County or Counties, is "the amount so agreed upon or settled," that is, either the amount agreed upon between the Counties without arbitration, or the amount settled by arbitration.

(*d*) Nothing is here said as to the rate of interest. (See 22 Vic. c. 85.)

(*e*) For which see ss. 221 *et seq.*

Council shall appoint for the Junior County, a Judge, a Surrogate, a Sheriff, one or more Coroners, a Clerk of the Peace, a Registrar, and at least twelve Justices of the Peace, (f) and shall provide, in the Commission or Commissions, that the appointments are to take effect on the day the Counties become disunited. (g) Judge, &c.

50.—The Office for the Registry of Deeds shall be kept in the County Town in like manner as in other Counties. (h) Registrar.

WHEN A JUNIOR COUNTY MAY BE SEPARATED.

51.— After such appointments are made, the Governor shall, by proclamation, separate the Junior County from the Senior or remaining County or Counties, and shall declare such separation to take effect on the first day of January next after the end of three calendar months from the date of the Proclamation; (i) and on that day the courts and officers of the Union shall cease to have any jurisdiction in the Junior United Counties, when and how to be separated by Proclamation.

(f) The necessity for and object of these preparatory appointments are obvious.

(g) That is the day when the junior County for Municipal and Judicial purposes becomes a separate and independent County.

(h) By the Registry Act of 1846, it is provided that the Registrar is to keep his office in the place named in his commission, or at such other place as may be appointed by proclamation (9 Vic. c. 34, s. 4); and by the Registry Act of last session, intituled "An Act to provide for the establishment of Separate Registry Offices in Cities, Junior Counties, and Ridings of Counties, in Upper Canada," it is made lawful for the Governor of this Province, so often as he shall deem the circumstances of any City, or of any Junior County of an Union of Counties, or Riding of a County or Counties not set apart for judicial or municipal purposes, such as to call for or render expedient and advisable the establishment therein of a separate Registry Office for the registration of deeds, conveyances, wills, judgments, and other documents or incumbrances which may affect any lands, tenements or hereditaments, within such City or Junior County or Riding of a County or Counties, by an Order in Council to cause to be issued a Proclamation under the Great Seal of this Province, and thereby to set apart and establish a Registry Office for such City or Junior County or Riding of a County or Counties, and in the case of a Junior County or Riding of a County or Counties, to name some place where the office of the Registrar shall be held until the dissolution of such Union of Counties or erection of such Riding into a separate County, and the fixing therein of a County Town; when such Registry Office shall be removed to and kept in such County Town. (22 Vic. cap. 95, sec. 1.)

(i) It will be seen that the separation does not necessarily take place on the first day of January next after the proclamation, but next after "the end of three calendar months from the date of the proclamation." So that if three calendar months of the expiring year do not remain after the date of the proclamation, the separation

Property
how divided.

County, (*j*) and the property of the Corporation of the Union situate in the Junior County shall become the property of the Corporation of the Junior County; and the property situate in the remaining County or United Counties shall be the property of the Corporation of the remaining County or United Counties.

VENUE.

Trials after
dissolutions
of Unions, to
be as ordered
by the Court
or a Judge.

52.—If upon dissolution of a Union of Counties, there is pending an action, information, indictment or other Judicial proceeding in which the Venue is laid in a County of the Union the Court in which the action, information or indictment is pending, or any Judge who has authority to make orders therein may, by consent of parties, or on hearing the parties on affidavit, order the Venue to be changed to the new County, (*k*) and all records and papers to be transmitted to the proper officers of such County, (*l*) and in the case of any such indictment found at any Court of Oyer and Terminer and General Gaol Delivery, any Judge of either of the Superior Courts of Common Law, may make the order. (*m*)

If no special
order made.

53.—In case no such change is directed, (*n*) all such actions, informations, indictments and other judicial proceedings shall be carried on and tried in the Senior County. (*o*)

will be deferred until the first day of January in the second year, reckoned from the date of the proclamation.

(*j*) This is a very important provision. Every word of it deserves attention. It is, that on the day when the Junior County becomes separate and independent "the Courts and Officers of the Union shall cease to have any jurisdiction in the Junior County." Who are "Officers of the Union?" Is a commissioner for taking affidavits, appointed by the Courts, such an Officer? Though there is room for argument that he is not, the better opinion would appear to be that he is. (See *McWhirter v. Corbett*, 4 U. C. C. P. 203; *Carter v. Sullivan et al*, Ib. 298; *Glick v. Davidson*, 15 U. C. Q. B. 591; *Fleming v. McNaughton*, 16 U. C. Q. B. 194.) When the jurisdiction of all such officers after the separation, as to the County separated, is to cease. No provision is here made for a continuance of their authority in the County separated, dependent on residence in that County, or any other circumstance.

(*k*) The section applies only to pending actions, informations, indictments, or other judicial proceedings, &c., *to be tried by a jury*. The reason is that in any such proceeding, the jury is to be summoned from the United Counties, or separated County, as the case may be.

(*l*) It seems to be in the discretion of the Court or Judge to grant or refuse the application.

(*m*) See preceding note.

(*n*) Under sec. 52.

(*o*) The Senior County is that in which the court-house and gaol,

COURTS IN.

54.—All Courts of the Junior County required to be held at a place certain, (*p*) shall be held in the County Town of the Junior County. (*q*)

Place for holding Courts after separation.

PERSONS IN PRISON.

55.—Any person charged with an Indictable offence (*r*) who, at the time of the disuniting of a Junior from a Senior County, is imprisoned on the charge in the Gaol of the Senior County, or is under Bail or Recognizance to appear for Trial at any Court in the Senior County, and against whom no indictment has been found before the disunion takes place, shall be indicted, tried and sentenced in the Senior County, (*s*)

Indictable offences how to be disposed of.

&c., are situate. (Sec. 36.) The object of this section is to fix the County in which pending proceedings are to be continued, when no order has been made under the preceding section for changing the venue to the Junior County after its separation. No provision is made for the change of the style of venue. If no change be made, of course the jury would be summoned from the Senior or remaining County or Counties; so all other proceedings connected therewith would be conducted therein.

(*p*) Such as Assizes, Quarter Sessions, County Courts, and Surrogate Courts, but not Division Courts, unless it be the Court for the Division in which the County Town is situate.

(*q*) This of course means after the Junior County has become an independent County by the separation.

(*r*) Offences which may be made the subject of indictment and are below the crime of treason may be divided into two classes—felonies and misdemeanors. The term felony appears to have been long used to signify the degree or class of crime committed, rather than the penal consequence or forfeiture occasioned by the crime, according to its original signification. The proper definition of it, however, as stated by an excellent writer, recurs to the subject of forfeiture, and describes the word as signifying an offence which occasions a total forfeiture of either lands or goods or both, at common law; and to which capital or other punishment may be superadded, according to the degree of guilt. With regard to felonies created by statute, it seems clear that not only those crimes which are made felonies in express words, but also all those which are decreed to have or undergo judgment of life and member by any statute, become felonies thereby, whether the word “felony” be omitted or mentioned. The word “misdemeanor,” in its usual acceptance, is applied to all those crimes and offences for which the law has not provided a particular name, and they may be punished according to the degree of the offence, by fine or imprisonment or both. A misdemeanor is in truth any crime less than a felony; misdemeanors comprehending all indictable offences which do not amount to felony as perjury, battery, libels, conspiracies, and public nuisances. (Russell on Crimes, i. 44.)

(*s*) Under certain circumstances, crimes of a given nature may be tried and punished without indictment, that is summarily, by a magistrate. (20 Vic. cap. 29; 22 Vic. cap. 55.)

unless a Judge of one of the Superior Courts of Common Law orders the proceedings to be conducted in the Junior County, in which event the prisoner or recognizances (as the case may be) shall be removed to the latter County and the proceedings shall be had therein; (*t*) and when in any such case the offence is charged to have been committed in a County other than that in which such proceedings are had, the venue may be laid in the proper County describing it as formerly "one of the United Counties of, &c." (*u*)

PERSONS ON BAIL.

Proceedings
in civil cases
under bail-
able process.

56.—Any person arrested or held to Bail under Civil Process, before the separation of a Junior from a Senior County, and liable to be imprisoned, shall be so imprisoned in the Gaol of the County in which he was arrested; and all proceedings in any Suit or Action in which any person was so arrested or held to Bail, and all proceedings after judgment founded upon the Arrest or holding to Bail, shall be carried on as if the Arrest or holding to Bail had taken place in such County as a separate County; (*v*) and in case the proceedings are to be had in the Junior County, all the records and papers relative to the case shall be transmitted to the proper Officer of the Junior County. (*w*)

PERSONS ON THE GAOL LIMITS.

Privileges of
persons ad-
mitted to
gaol limits
saved on dis-
solution.

57.—In case a debtor or other person has been (in manner prescribed by law) admitted to the Gaol limits of a Union of Counties, and the Union is afterwards dissolved, or one or more Counties are separated from the Union, such debtor or person may notwithstanding travel and reside in any portion of the Counties as if no dissolution or separation had taken place, without committing a breach of any Bond or the condition thereof, or a forfeiture of any security given for the purpose of obtaining the benefit of such limits; (*k*) and in case

(*t*) By sec. 52, the power to change the venue can only be exercised where the indictment, &c., is *pending*. This section impliedly authorises a change before indictment found.

(*u*) The form of venue here given ought to be well observed.

(*v*) Provision is here made for the case of a person arrested or held to bail on *civil* process; and if imprisoned, it is not only declared in what prison he shall be confined, but in what county proceedings shall be carried on, that is, in the County in which he was arrested. No Judges order is in terms made necessary.

(*w*) See statute 22 Vic. cap. 96, as to arrest in civil cases.

(*k*) The effect of this, is to entitle a debtor on the gaol limits of United Counties to have the benefit of such limits after as well as be-

any such person after the dissolution of the Union is surrendered or ordered to be committed to close custody, he shall be surrendered or committed to the Sheriff of the County in which he was arrested and be imprisoned in the Gaol thereof. (*l*)

WHEN PROVISIONAL COUNCILS, OFFICERS, &C., TO BECOME ABSOLUTE.

58.—When a junior County is separated from a Union of Counties, the Head and members of the Provisional Council of the junior County, and the officers, by-laws, contracts, property, assets and liabilities of the Provisional Corporation, shall be the Head and members of the Council, and the officers, by-laws, contracts, property, assets and liabilities of the new Corporation. (*m*)

Officers and property, &c. continued.

BY-LAWS, DEBTS AND RATES OF FORMER UNIONS OF COUNTIES OR TOWNSHIPS AFTER BEING DISSOLVED.

59.—When a junior County or Township is separated from a senior County or Township, the By-laws of the Union shall continue in force in the several Counties or Townships which composed the Union until altered or repealed by the Council or Councils of the same respectively. (*n*)

By-laws to continue in Counties and Townships.

60.—After the dissolution of a Union of Townships, the following shall be the disposition of the property of the Union. (*o*)

Upon dissolution of Township unions, the Junior to pay a just proportion of the d-bts of the Union;

1—The real property of the Union situate in the Junior Township, shall become the property of the Junior Township;

fore the separation of one or more of the County or Counties from the remainder.

(*l*) Thus while the debtor is on the limits he may enjoy the whole of the United Counties; if committed to close custody he is to be rendered to the Sheriff of the County, whether Junior or Senior, in which he was arrested.

(*m*) The Reeves and Deputy Reeves of a Junior County may under sec. 39, and subject to the provisions of that section, be constituted a Provisional Council, with power to appoint provisional officers, make contracts, and under and subject to the provisions of sec. 51, such Junior County may by proclamation be separated from the Union. Hence it is enacted by the section here annotated, that the head and members of the Provisional Council of the Junior County, and the officers, &c., shall be the head, &c., and the officers, &c., of the new Corporation.

(*n*) The effect of this section is to continue existing By-laws of the Union in both the Senior and Junior Counties and Townships respectively, after a separation, subject to the powers of each independent Council, to repeal or alter the same when the Council of the Union might have done so.

(*o*) This section is in its application restricted to Townships exclusively.

and disposi-
tion of
property of
the Union.

2.—The real property of the Union situate in the remaining Township or Townships of the Union, shall be the property of the remaining Township or Townships;

Joint inter-
est in assets

3.—The two Corporations shall be jointly interested in the other assets of the Union, (*p*) and the same shall be retained by the one, or shall be divided between both, or shall be otherwise disposed of, as they may agree;

Arrange-
ment as to
debts.

4.—The one shall pay or allow to the other, in respect of the said disposition of the real and personal property of the Union, and in respect to the debts of the Union, such sum or sums of money as may be just; (*q*)

How to be
determined.

5.—In case the Councils of the Townships do not within three months after the first meeting of the Council of the junior Township, agree as to the disposition of the personal property of the Union, or as to the sum to be paid by the one to the other, or as to the times of payment thereof, the matter shall be settled by Arbitration under this Act; (*r*)

To bear
interest.

6.—The amount so agreed upon or settled shall bear interest from the day on which the Union was dissolved; (*s*) and shall be provided for by the Council of the indebted Township like other debts. (*t*)

Liability of
Unions for
debts at the
time of dis-
solution.

61.—In case of the separation of a County or Township from a Union of Counties or Townships, each County or Township which formed the Union shall remain subject to the debts and liabilities of the Union as if the same had been con-

(*p*) The word "assets" is a word well known to the law. It is derived from the French word "*assez*"—enough. It has a restricted and an enlarged sense. In its restricted sense it means goods *enough* to discharge that burden which is cast upon an executor, &c., in satisfying the debts of a testator, &c. In its enlarged sense, as used in the Municipal Act, it means property as opposed to liabilities. In the section under consideration, provision is in the first subsection made for the disposition of the "real property of the Union situate in the Junior Township." In the second subsection, of the "real property of the Union situate in the remaining township or townships of the Union." Then, in the subsection here annotated, of "the other assets of the Union."

(*q*) *As may be just.* A very vague but under the circumstances as definite an expression as could well be used. The design of the enactment is that the Township Councils should in the first instance come to an understanding or agreement. Failing this, resort must under the next subsection be had to arbitration.

(*r*) See sec. 336 *et seq.*

(*s*) See notes *c* and *d* to sec. 48.

(*t*) For which see sec. 221 *et seq*

tracted or incurred after the dissolution by the respective Counties or Townships which constituted the Union. (u)

62.—After the dissolution, the Council of the Senior or remaining County or Township shall issue its debentures or other obligations for any part of any debt contracted by the Union for which debentures or other obligations might have been but had not been issued before the dissolution; and such debentures or obligations shall recite or state the liability of the Junior County or Township therefor under this Act; and the junior County or Township shall be liable thereon as if the same had been issued by the Junior County or Township. (v)

Debentures to issue for such debts, and to bind the old and new Municipalities.

63.—All assessments imposed by the Council of the Union for the year next before the year in which the dissolution takes effect, shall belong to the Union and shall be collected and paid over accordingly, and after the dissolution, all special rates for the payment of debts theretofore imposed by any By-law of the Union, shall continue to be levied in the junior County or Township; and the Treasurer of the junior County or Township shall pay over the amount as received, to the Treasurer of the

Assessments for year preceding dissolution, who to belong to.

Special rates for debts continued to be paid over

(u) Here we have declared the separate liability of each County or Township to the creditors of the Union, irrespective of the adjustment made under preceding sections between the Counties or Townships of the Union. Though it may be agreed by the adjustment that one County or one Township shall assume and pay all the debts of the Union, creditors are not bound by any such arrangement. No arrangement that may be made without the assent of the creditors can absolve the remaining Counties or Townships of the Union. Each County and Township is liable to contribute towards the satisfaction of the joint debts. (But see sec. 64.) The liability, as will be seen by the next section, exists in some cases though the debentures upon which the liability arises be issued by the Senior County, &c., alone, after the dissolution of the Union.

(v) In the reading of this section there are three points to be noted. *First*, that after the dissolution, the Council of the remaining County or Township shall issue its debentures, or other obligations; but, to be effectual under this section, only "for any part of any debt contracted by the Union." *Second*, that such debentures, &c., shall recite or state the liability of the Junior County or Township therefor, under this Act: and *Third*, that the Junior County or Township shall be liable thereon as if the same had been issued by the Junior County or Township. Some doubt may arise on the third point, as to the nature of the liability, *i. e.*, whether it is to be a joint and several liability or joint only. The words used, "as if the same had been issued by the Junior County or Township," would indicate the former. (See also sec. 64.) The object of the section is to provide for the completion of securities to creditors not perfect at the time of separation.

by Treasurer
of the Junior
County.

senior County or Township, and the latter shall apply the moneys so received in the same manner as the money raised under the same By-law in the senior County or Township. (*w*)

If the sum
paid over
exceeds the
just amount,
the excess to
be refunded.

64.—In case the amount so paid over to the Senior County or Township, or to any creditor of the Senior County or Township, in respect of a liability of the Union, exceeds the sum which, by the agreement or award between the Councils the Junior County or Township ought to pay, the excess may be recovered against the Senior or remaining County or Township as for money paid or as for money had and received, as the case may be. (*x*)

MUNICIPAL COUNCILS, &c., OF WHOM COMPOSED.

THE HEADS.

Heads of
Counties, &c.

65.—The Head of every County and Provisional Corporation shall be designated (*y*) the Warden thereof, and of every City and Town the Mayor thereof, and of every Township and Incorporated Village the Reeve thereof.

THE MEMBERS. (*z*)

1.—IN CITIES.

Cities.

66.—The Council of every City shall consist of the Mayor,

(*w*) The right to rates for the year next preceding the separation, which always takes place on 1st January, is here determined. The special rates mentioned are to be levied in each respective Municipality, after separation, and be collected by each respective collector, as if the By-law imposing the rates had been made after the separation by each County or Township separately. Such is the effect of the By-law of the Union having force in each Municipality severally after the dissolution of the Union. The duties of the Treasurers require careful attention.

(*x*) The liability of the Junior County or Township respectively, notwithstanding separation, is explained in the note to sec. 61. The right of the Senior County or Township to rates imposed before the separation, is also explained in the note to sec. 63. The section under consideration provides for the reimbursement of the Junior Municipality any sum which the Junior may have paid, exceeding the proportion which it, according to the adjustment with the Senior, was bound to contribute.

(*y*) *Designated.* That is described in all acts, deeds and matters of every kind in which it becomes necessary to refer to the head of the corporation by name.

(*z*) It is not the duty of the members of a Municipal Council to determine the validity of the election of one of their members. Where the Returning Officer has returned him elected, he may sit and vote until unseated by process of law. (*In re Hawk and Ballard*, 3 U. C. C. P. 241.)

who shall be head thereof, and of two Aldermen and two Councilmen for every Ward; (a)

2.—IN TOWNS.

The Council of every Town shall consist of the Mayor, who shall be the Head thereof, and of three Councillors for every Ward, (b) and if the Town has not withdrawn from the jurisdiction of the Council of the County in which it lies, one of the Councillors of the Town shall be elected by the Council, to be Reeve of the Town, (c) and if the Town had the names of five hundred resident freeholders and householders on the last revised assessment roll, then one other of the Councillors to be Deputy Reeve; (d)

TOWNS.

3.—IN INCORPORATED VILLAGES.

The Council of every Incorporated Village shall consist of five Councillors, one of whom shall be Reeve, and if the Village had the names of five hundred resident freeholders and householders on the last revised assessment roll, then one other of the Councillors shall be Deputy Reeve; (e)

Incorporated Villages.

4.—IN TOWNSHIPS.

The Council of every Township shall consist of five Councillors; but when the Township is divided into Wards, then, of one Councillor for each Ward, one of which Councillors shall be Reeve, and if the Township had the names of five

Townships and Wards.

(a) The Governor may divide a new City into Wards, with appropriate names and boundaries (sec. 17); and may, under certain circumstances, make a new division of Wards, or may add to the city any part of the adjacent Township (sec. 19).

(b) Incorporated Towns are divided into Wards; and no Town is to have less than three Wards; and no Ward less than five hundred inhabitants (sec. 17.)

(c) The Council of a Town may pass a By-Law to withdraw the Town from the jurisdiction of the County Council (sec. 26); and if the Town be withdrawn, the Mayor and Councillors would form an independent Council. If independent they would have no rights to seats in the County Council, and the election of Reeves and a Deputy Reeve would therefore cease.

(d) The population of an Incorporated Town must always exceed five hundred *inhabitants*, as there must be three Wards, and each Ward contain that number of inhabitants (sec. 17); but there may be in an Incorporated Town more than five hundred inhabitants (including women and children), and yet not, as mentioned in this subsection, five hundred *freeholders* and *householders*, on the last revised assessment roll.

(e) A Village, to be incorporated, must contain seven hundred and fifty *inhabitants* (not freeholders and householders). (See preceding note).

hundred resident freeholders and householders on the last revised assessment roll, then one other of the Councillors shall be Deputy Reeve; (*f*)

5.—IN COUNTIES.

Counties.

And the Council of every County shall consist of the Reeves and Deputy Reeves of the Townships, Towns and Villages within the County, and of any Towns within the County which have not withdrawn from the jurisdiction of the Council of the County; and one of the Reeves or Deputy Reeves shall be Warden. (*g*)

67.—No Reeve or Deputy Reeve shall take his seat in the County Council until he has filed with the Clerk of the County Council a Certificate under the hand and seal of the Township, Village or Town Clerk, that such Reeve or Deputy Reeve was duly elected, and made and subscribed the declarations of office and qualification (*a*) (unless exempted therefrom,) (*b*) as such Reeve or Deputy Reeve; nor in the case of a Deputy Reeve, until he has also filed with the Clerk of the County an affidavit or affirmation of the Clerk, or other person having the legal custody of the last revised Assessment-Rolls for the Municipality which he represents, that there appear upon such Rolls the names of at least five hundred resident Freeholders and Householders in the Municipality. (*c*)

Trustees of
Police
Villages.

68.—The Trustees of every Police Village shall be three in number, one of whom shall be the Inspecting Trustee. (*d*)

PROVISIONAL COUNCILS.

WHO TO COMPOSE.

69.—The Reeves and Deputy Reeves of the Municipali-

(*f*) When a Township is not divided into Wards, the election of Councillors is by general vote (sec. 88).

(*g*) As to Towns withdrawn, see note *c* on foregoing page.

(*a*) Before the framing of this Act it was necessary for members of a Municipal Council elect to take *oaths* of office and qualification. Throughout this Act declarations have in general been substituted for oaths.

(*b*) Allusion is made to secs. 71 and 72.

(*c*) It is apprehended that the Council, having received the affidavit or affirmation of the Clerk, &c., that there appears upon the rolls the names of at least five hundred resident freeholders and householders, &c., have no right to question the fact by rejecting the Deputy Reeve, but should leave the truth of the fact, if doubted, to be determined by the Courts. (See note *z* to sec. 66.)

(*d*) As to the duties of Trustees of Police Villages, see sec. 292 *et seq.*

ties within a Junior County for which a Provisional Council is established, shall, *ex officio*, be the members of the Provisional Council. (e)

Provisional Council, Reeves and Dep. Reeves to be.

QUALIFICATION OF MUNICIPAL COUNCILLORS AND POLICE TRUSTEES.

70.—The persons qualified to be elected Mayors, members of a Council or Police Trustees, are such residents of the County within which the Municipality or Police Village is situate as are not disqualified under this Act, (g) and have, at the time of the election, in their own right or in the right of their wives, as proprietors or tenants, freehold or leasehold property rated in their own names on the last revised Assessment-Roll of such Municipality or Police Village to at least the value following. (h)

Qualification of Councilors, &c.

In Townships—Freehold to four hundred dollars on Leasehold to eight hundred dollars ;

In Townships.

In Police Villages—Freehold or Leasehold to four hundred dollars ;

In Police Villages.

In Incorporated Villages—Freehold to forty dollars per annum, or Leasehold to eighty dollars per annum ;

In Incorporated Villages.

In Towns—Freehold to Eighty dollars per annum, or Leasehold to One hundred and sixty dollars per annum ;

In Towns.

And in Cities—for Aldermen—Freehold to One hundred and sixty dollars per annum, or Leasehold to Three hundred and twenty dollars per annum : and for Councilmen—Freehold to Eighty dollars per annum or Leasehold to One hundred and sixty dollars per annum ;

In Cities.

And so in the same proportions in all Municipalities and Police Villages in case the property is partly freehold and partly leasehold.

As to property partly freehold.

The term "Leasehold" in this Section, shall not include a term less than a Tenancy for a year, or from year to year.

"Leasehold" defined.

(e) The corporate name of the Council should be "*The Provisional Corporation of the County of (naming it)*" (sec. 5).

(g) See sec. 73.

(h) A person not *in fact* rated on the roll is not eligible, though he may suppose he is, and though possessed of property sufficient to confer the qualification. (*The Queen ex rel. Metcalfe v. Smart*, 10 U.C. Q. B. 89.) Provision is in the next section made for the case of a new Township having no assessment roll (sec. 71). An administrator, though rated in his own name for real estate belonging to the deceased, is not entitled to vote upon such real estate. (*The Queen ex rel. Stock v. Davis*, 3 U. C. L. J. 128.)

In new Township not having assessment roll.

71.—In case of a new Township erected by Proclamation for which there has been no Assessment-Roll, every person who at the time of the first election has such an interest in real property and to such an amount as herein before mentioned, shall be deemed to be possessed of a sufficient property qualification. (*i*)

If only one person to be qualified.

72.—In case in a Municipality (*k*) there are not at least two persons qualified to be elected for each seat in the Council, no qualification beyond the qualification of an elector shall be necessary in the persons to be elected. (*l*).

DISQUALIFICATIONS.

Disqualifications.

73.—No Judge of any Court of Civil Jurisdiction, no Gaoler or Keeper of a House of Correction, no Officer of any Municipality, no Bailiff of a Division Court, no Sheriff's Officer no Innkeeper or Saloonkeeper, no person receiving any allowance from the Corporation (except as Mayor, Warden, Reeve, Deputy Reeve, or Township Councillor), and no person having by himself or his partner an interest in any contract with or on behalf of the Corporation, shall be qualified to be a Member of the Council of the Corporation. (*m*)

(*i*) It may happen that a new Township has not been previously assessed, either separately or as part of a Union. (Sec. 28 *et seq.*) This section is intended to meet such a case should it arise.

(*k*) The word "Municipality" means any locality the inhabitants of which are incorporated under this Act, but does not mean a Police Village. (Sec. 402, subsec. 1.)

(*l*) As to qualification of electors, see sec. 75 *et seq.*

(*m*) The object of the latter part of this section, like that of sec. 28 of the English Mun. Cor. Act of 5 & 6 Wm. IV. cap. 76, is clearly to prevent all dealings on the part of the Council with any of its members in their private capacity, in other words, to prevent a member of the Council, who stands in the situation of a trustee for the public, from taking any share or benefit out of the trust fund, or in any contract in the making of which he as one of the Council ought to exercise a superintendence. (Rawlinson's Mun. Man. 53.) The evil contemplated being evident, and the words used general, they will be construed to extend to all cases which come within the mischief intended to be guarded against, and which can fairly be brought within the words. (*l*b) The words of our enactment are that "no person having by himself or his partner an interest in any contract with or on behalf of the corporation shall be qualified, &c.;" and the words of the English Act are that "no person shall be qualified, &c., who shall have, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of such Council, &c." The difference deserves to be noticed. Under our old Act, of which the section here annotated is a re-enactment, it was held that a lessee of a Municipal

EXEMPTIONS.

74.—All persons over sixty years of age; all Members and Officers of the Legislative Council and of the Legislative Assembly; all persons in the Civil Service of the Crown; all Judges, not disqualified by the last preceding section, all Sheriffs and Coroners; all persons in Priests' Orders, Clergymen and Ministers of the Gospel of every denomination; all Members of the Law Society of Upper Canada, whether Barristers or Students; all Attorneys and Solicitors in actual practice; all Officers of Courts of Justice; all Members of the Medical Profession, whether Physicians or Surgeons; all Professors, Masters, Teachers and other Members of any University, College or School in Upper Canada, and all Officers and Servants thereof; all Millers; and all Firemen belonging to an authorized Fire Company—are exempt from being elected or appointed Councillors, or to any other Corporate Office (*n*)

Exemptions.

ELECTORS.

75.—The Electors of every Municipality for which there is an assessment roll, (*o*) and the Electors of every Police

Electors,
qualification
of, in Town-
ships, &c.,
having an as-
sessment roll

Council is disqualified from sitting as a member of the Council. (*The Queen ex rel. Stock v. Davis*, 3 U. C. L. J. 128.) So a person who has contracted for a lease, though the contract be executed by himself only and not by the corporation. (*Ib.*) Where defendant, before the election, had tendered for some painting and glazing required for the city hospital, and his tender having been accepted, he had done a portion of the work, for which he had not been paid, but afterwards refused to execute a written contract prepared by the City Solicitor, and informed the Mayor of the City that he did not intend to go on with the work, he was notwithstanding held to be disqualified. (*The Queen ex rel. Moore v. Miller*, 11 U. C. Q. B. 465.) In such a case it is immaterial whether there is or is not a contract binding on the corporation. (*Ib.*) So where it was shown that the candidate elected was at the time of the election surety for the Treasurer of the Town and acting as the Solicitor of the Corporation, he was held to be disqualified. (*The Queen ex rel. Coleman v. O'Hare*, 2 U. C. Prac. Rep. 18.) So where the candidate was at the time of the election a shareholder in a company which had borrowed money from the Town. (*The Queen ex rel. Padwell v. Stewart, Hambly, Ib.*) Reference may also be had to the following decisions under the English Act: *The Queen v. York*, 2 Q. B. 847; *Simpson v. Ready*, 12 M. & W. 736; *The Queen v. Francis*, 21 L. J. Q. B. 304.

(*n*) The last section contains the disqualifications, and this, the exemptions. The difference between a disqualification and an exemption, as regards an individual, is this, that a person disqualified cannot hold office, but a person exempt, even though qualified, is not bound to accept office. The one is an incapacity or disability. The other is a privilege.

(*o*) See secs. 71 and 77.

D

Village, (*p*) shall be the male freeholders thereof, (*q*) and such of the householders thereof as have been resident therein (*r*) for one month next before the election, (*s*) who are natural born or naturalized subjects of Her Majesty, (*t*) and of the full age of twenty-one years, (*u*) and who were severally rated on the last revised assessment rolls, for real property in the Municipality or Police Village, held in their own right (*w*) or that of their wives as proprietors or tenants. (*x*)

(*p*) The distinction is here drawn between a Municipality and a Police Village. The word "Municipality" signifies any locality the inhabitants of which are incorporated. The inhabitants of a Police Village are not incorporated. (Sec. 402, subsec. 1.)

(*q*) Females being clearly excluded. This section appears to enable freeholders to vote though not resident. (See sec. 97, subsec. 9, as to the form of declaration.) But non-residents cannot vote unless rated on the assessment roll, which they may be at their own request. (See 16 Vic. cap. 182, sec. 17). As to new townships, residence is still required in the case of freeholders. (Sec 77.)

(*r*) Nice questions arise as to when a party can, or cannot be said to be a *resident* of a Municipality. A man cannot, within the meaning of the municipal laws, be said to be resident in *two* Municipalities at the same time. A man's residence is where his home is situated—where his family live. An occasional absence from his home to attend to business in another Municipality does not make his home less his residence. Where A had a dwelling-house at Bowmanville, where his wife and family lived, but had a saw mill and store and was Postmaster in the township of Cartwright, which occasioned him frequently to visit that place, and who, while there, used to board with one of his men in a house owned by himself. *Held*, that after voting in Bowmanville he had no right to vote in Cartwright. (*The Queen ex rel. Taylor v. Caesar*, 11 U. C. Q. B. 461.)

(*s*) Residence for a fixed time is a new feature in municipal law.

(*t*) See 12 Vic. cap. 197, as amended by 22 Vic. cap. 1.

(*u*) Full age in male or female is twenty-one years, and is completed on the day preceding the anniversary of a person's birth. (*Anonymous*, 1 Salk. 44; *Toder v. Sansam*, 1 Brown P. C. 468.) If therefore one is born on 1st January, he is of age to do any legal act on the morning of the last day of December, though he may not have lived twenty-one years by nearly forty-eight hours. (Tomlin "Infant," 1.)

(*w*) An administrator cannot, though assessed in his own name for the property of the deceased, vote on such property. (*The Queen ex rel. Stock v. Davis*, 3 U. C. L. J. 128.)

(*x*) It is to be observed that no specific *amount* of real property is by this section required. It is only necessary that the person should be rated, &c., for real property in the Municipality, &c., held in his own right, &c. Such is undoubtedly the law as to Townships and Police Villages. As to Cities, Towns and Incorporated Villages, the law is different. (See sec. 76.)

76.—In Cities, Towns and Incorporated Villages, (*y*) such real property, whether freehold or leasehold, or partly each, (*z*) must have been so rated as of at least the annual value following:

In Cities,
Towns, and
Incorporated
Villages.

In Incorporated Villages, twelve dollars; (*a*)

In Towns, twenty dollars; and

In Cities, thirty dollars.

77.—At the first election for a newly erected Municipality for which there is no separate assessment-roll (*b*) every resident male inhabitant, (*c*) though not previously assessed, shall be entitled to vote if he possesses the other qualifications above mentioned, and has at the time of the election sufficient property to have entitled him to vote if he had been rated for such property, (*d*) and every person so claiming to vote shall name the property on which he votes, and the Returning Officer, at the request of any Candidate or voter, shall note the property in his poll book opposite the voter's name: (*e*)

In newly
erected
Townships
not having
any assess-
ment rolls.

(*y*) See note *x* to preceding section.

(*z*) The property, whether freehold or household, or a combination of both, if of the annual value specified, entitles the person to vote.

(*a*) There is no general law which makes dollars and cents a more correct or lawful designation of Canadian money than pounds, shillings and pence. The only law of the kind really in force is 20 Vic. cap. 18, which requires all accounts rendered to the Provincial Government, &c., to be in dollars and cents. The adoption of dollars and cents by bankers and others is conventional. The description by dollars and cents is however invariably used throughout this Act, in preference to that by pounds, shillings and pence.

(*b*) A newly erected Municipality means more than a newly erected Township, and may include a Junior Township newly separated. In such a case, although there might be no "separate assessment roll," there would be the assessment roll of the Union for the previous year, and there might be several assessment rolls for "Assessment Districts," each less than the United Townships. (16 Vic. cap. 182, sec. 16.) The exception, however, created by this section appears to be intended to apply only to new Townships created Municipalities in the first instance.

(*c*) See note *r* to sec. 75.

(*d*) See note *x* to same section.

(*e*) Every voter is required to name the property on which he votes, but the Returning Officer is only bound to note the property in his poll book when requested to do so by a candidate or a voter.

Wards in which electors shall vote.

78.—When a Municipality (*f*) is divided into Wards or electoral divisions, (*g*) no elector shall vote in more than one Ward or electoral division; and if entitled to vote in the Ward in which he resides, he shall not be entitled to vote in any other Ward or electoral division. (*h*)

When landlord and tenant both rated.

79.—In case both the owner and occupant of any real property, (*i*) are rated therefor, both shall be deemed rated within this Act. (*j*)

When joint owners rated together.

80.—When any real property, (*k*) is owned or occupied jointly by two or more persons, (*l*) and is rated at an amount sufficient, (*m*) if equally divided between them, to give a qualification to each, then each shall be deemed rated within this Act, (*n*) otherwise none of them shall be deemed so rated. (*o*)

ELECTIONS.

THE HOLDING OF, IN CERTAIN PLACES PROHIBITED.

Cities, Towns &c., not to form parts of Townships.

Elections not in Taverns.

81.—No Election of Township Councillors shall be held within any City, Town or Incorporated Village, nor shall any Election for a Municipality or any Ward thereof be held in a tavern or house of public entertainment licensed to sell spirituous liquors. (*p*)

(*f*) See sec. 402, subsec. 1.

(*g*) Whenever a Township is not divided into Wards, the Council may from time to time pass by-laws for dividing it into two or more convenient electoral divisions, for establishing polling places therein and for appointing a Returning Officer therefor, &c. (Sec. 268.)

(*h*) As to residence see note *r* to sec. 75.

(*i*) See sec. 402, subsec. 5.

(*j*) That is to say, each may vote in respect of his interest, the one as proprietor if a freeholder, and the other as tenant if a resident householder. (Secs. 75, 97, subsec. 9.)

(*k*) See sec. 402, subsec. 5.

(*l*) Notwithstanding the Interpretation Act 12 Vic. cap. 10, sec. 5, subsec. 8, the word "persons," as here used, seems applicable only to *individual* persons, not to corporations.

(*m*) As to Townships and Police Villages, no amount is required to qualify an elector. (See note *x* to sec. 75.)

(*n*) See sec. 76.

(*o*) It seems hard that in such a case neither one nor the other should be entitled to vote; but as the property cannot be said to be the property of either, neither owner nor occupant can in the case supposed be said to be rated at the amount required, where an amount is necessary.

(*p*) By the English Municipal Act 5 & 6 Wm. IV. cap. 76, sec. 33, it is declared that "no election shall be holden, &c., in any Borough,

FIRST ELECTIONS IN NEW OR EXTENDED MUNICIPALITIES.

82.—(1.) In case of the Incorporation of a new Township or Union of Townships, (*q*) and

(2.) In case of the separation of a junior Township from a Union of Townships, (*r*) and

(3.) In case of the erection of a Police into an Incorporated Village, or of the erection of a Village into a Town or of a Town into a City, (*s*) and

(4.) In case of an additional tract of land being added to an Incorporated Village, Town or City, or in case of a new division into wards of a Town or City. (*t*)

(5.) In each of the foregoing cases, the first election under the Proclamation or By-law by which the change was effected, shall take place on the first Monday in January next after the end of three calendar months from the date of the Proclamation, or from the passing of the By-law by which the change is made, and until such day the change shall not go into effect. (*u*)

First elections where Corporations are newly erected or extended.

Time of Elections.

SUBSEQUENT ELECTIONS.

83.—Every Election shall be held in the Municipality or Police Village to which the same relates, (*v*) and when the Municipality has been divided into Wards, the election shall be by Wards, and every Ward election shall be held within the Ward. (*w*)

Places of Elections.

84.—The Council (*x*) of every Municipality (including a Village newly erected into a Town, and a Town newly erected into a City) (*y*) shall, from time to time by By-law, (*z*) ap-

To be fixed by By-law for Municipalities.

in any church, chapel, or other place of public worship." It is not declared in that Act, more than here, what shall be the effect of contravening the Act. It is apprehended, however, that the effect would be to invalidate the election.

(*q*) Under secs. 27, 32.

(*r*) Under secs. 28, 29.

(*s*) Under secs. 10 to 15 inclusive.

(*t*) Under secs. 13, 16, 19.

(*u*) See note *i* to sec. 51.

(*v*) See note *p* to sec. 75.

(*w*) *Qm.* or electoral division? (See sec. 268.)

(*x*) See sec. 402, subsec. 2, as to the meaning of the word "council."

(*y*) See subsec. 1 of same section as to the meaning of the word "Municipality."

(*z*) Every by-law should be under the seal of the Corporation, and be signed by the head of the Corporation, &c. (Sec. 188.)

point the place or places for holding the next ensuing Municipal Election, otherwise the Election shall be held at the place or places at which the last Election for the Municipality or Wards was held. (a)

Also for Police Villages.

85.—The Council by which a Police Village is established shall, by the By-law establishing the same, name the place in the Village for holding the Election of Police Trustees. (b)

Yearly elections of Councillors and Police Trustees.

86.—The Electors (c) of every Municipality (d) (except a County) shall elect annually on the first Monday in January, the Members of the Council of the Municipality, and, on the second Monday in January, the Electors of every Police Village shall annually elect the Police Trustees of the Village, (e) and the persons so elected shall hold office until their successors are elected or appointed and sworn into office, and the new Council or Board of Police Trustees is organized. (f)

First election in junior Township after separation.

87.—When a junior Township of a Union, has one hundred resident freeholders and householders on the last revised assessment-roll, (g) the Council of the County shall, by a By-law (h) to be passed before the thirty-first day of October, in the same year, (i) fix the place for holding the first annual

(a) The right of the Municipal Council to appoint the place or places for holding municipal elections may be "from time to time exercised;" and when once exercised, the places appointed continue to be the places for all future elections until otherwise directed by by-law. (See secs. 10, 27, 29, 83, 85.)

(b) On the petition of any of the inhabitants of an Unincorporated Village, the Council of the County within which the Village is situate may by by law erect the same into a Police Village (sec. 9); and by the same by-law, under the section here annotated, name the place in the Village for holding the election of Police Trustees. Only one place is authorized, and no power to change it as in the case of Municipalities under the last section appears to be given.

(c) *Electors.* See sec. 75 *et seq.*

(d) *Municipality.* See sec. 402, subsec. 1.

(e) The elections must take place on the days named, and cannot take place on any other days. If any election do not so take place, appointments must be made pursuant to sec. 126, which appointments are to have the effect of elections. (Sec. 128.)

(f) *Sworn into office, &c.* "Declarations" are in this respect substituted for oaths. See sec. 175 *et seq.*, and sec. 401.

(g) See notes to sec. 28.

(h) *By-law.* See sec. 188.

(i) The time for doing the act authorized being limited, the act cannot be done after the day named, unless the language used is to be construed as directory only. (*Davison et al. v. Gill*, 1 East, 64.)

election of Councillors in the Township, and appoint a Return-Officer for holding the same, (*j*) and otherwise provide for the due holding of the election according to law. (*k*)

88.—In case of the separation of a Union of Townships, the existing division into Wards, if any, shall cease as if the same had been duly abolished by By-law, and the elections of Councillors shall be by general vote until the Township or Townships are again divided into Wards under the provisions of this Act. (*l*)

Ward Divisions in United Townships to cease on dissolution of Union.

89.—When there is no division of a Township into Wards, the election of Councillors shall be by general vote, (*m*) and shall be held at the place or places where the last election was held, or in such other place or places as may be from time to time fixed by By-law. (*n*)

Where elections to be held in Townships not divided into Wards.

RETURNING OFFICERS.

90.—The Council of every Municipality (*o*) in which the election is to be by Wards or electoral divisions, (*p*) shall from time to time by By-law, (*q*) appoint Returning Officers to hold the next ensuing elections. (*r*)

Returning Officers to be appointed by the Municipal Council.

WHEN CLERKS TO BE (EX-OFFICIO) RETURNING OFFICERS.

91.—In the case of a Municipality in which the election is not to be by Wards or electoral divisions, the Clerk shall be the Returning Officer at all elections after the first. (*s*)

When Clerk to be *ex officio* Returning Officer.

(*j*) The places may be from time to time changed by the new Municipal Council. (Sec. 84.)

(*k*) See sec. 81 *et seq.*

(*l*) This section does away with the complexity of the former law on the subject.

(*m*) Should the County Council, in the case of a Junior Township having one hundred resident freeholders and householders, &c., not pass a by-law before 31st October appointing a place to hold the first annual election of Councillors in the Township, the election might, it is supposed, be conducted by general vote under this section.

(*n*) *By-law.* See sec. 186, *et seq.*

(*o*) Municipality. See sec. 402, subsec. 1.

(*p*) Electoral Divisions. See sec. 268.

(*q*) *By-law.* See sec. 186, *et seq.*

(*r*) As to time for holding elections, see sec. 82.

(*s*) The first elections are otherwise provided for.—See sec. 82 *et seq.*, and sec. 92, and notes thereto.

RETURNING OFFICERS FOR THE FIRST ELECTION IN VILLAGES.

For first
election in
Villages.

92.—In every By-law establishing a Police or Incorporated Village, a Returning Officer shall be appointed who is to hold the first election for such Village. (*t*)

After first
election, Po-
lice Trustees,
to appoint.

93.—In Police Villages, after the first election, (*u*) the Trustees thereof, or any two of them, shall from time to time, by writing under their hands, (*v*) appoint the Returning Officer. (*w*)

IF RETURNING OFFICER ABSENT.

Absence of
Returning
Officer pro-
vided for.

94.—In case, at the time appointed for holding an election, the person appointed to be Returning Officer has died, or does not attend to hold the election within an hour after the time appointed, (*x*) or in case no Returning Officer has been appointed, (*y*) the electors present at the place for holding the election may choose from amongst themselves a Returning Officer, and such Returning Officer shall have all the powers, and shall forthwith proceed to hold the election and perform all the other duties of a Returning Officer. (*z*)

THE RETURNING OFFICER TO BE A CONSERVATOR OF THE PEACE.

Returning " "
Officers to be
conservators
of the peace.

95.—The Returning Officer shall, during the election, act as a Conservator of the Peace for the City or County in which the election is held; and he, or any Justice of the Peace having jurisdiction in the Municipality in which the election is held, may cause to be arrested, and may summarily try and punish by fine or imprisonment, or both, or may imprison or bind over to keep the peace, or for trial, any riotous or dis-

(*t*) The appointment is to be made by the by-law establishing the Village, and if not then made may it is presumed be made pursuant to sec. 94. (See sec. 10.)

(*u*) Which is provided for by the preceding section.

(*v*) Police Villages, not being incorporated, of course have not a corporate seal.

(*w*) A distinction is to be observed between the appointment of the place for holding an election in a Police Village and the appointment of a Returning Officer to hold it. The place is appointed pursuant to sec. 85. The Returning Officer pursuant either to sec. 92 or 93.

(*x*) If the Returning Officer be not dead, but fail to attend, a full hour must elapse before the electors present can choose from among themselves a Returning Officer to supply his place, and when the substitute is so chosen it is apprehended the original Returning Officer cannot appear and take the business out of his hands.

(*y*) Which may happen when the appointment is not made either at the proper time, "by the proper body," or in a proper manner.

(*z*) See sec. 95 *et seq.*

orderly person who assaults, beats, molests or threatens any voter coming to, remaining at, or going from the election, (a) and, when thereto required, all constables and persons present at the election, shall assist the Returning Officer or Justice of the Peace, on pain of being guilty of a misdemeanor. (b)

MAY SWEAR IN SPECIAL CONSTABLES.

96.—Every Returning Officer or Justice of the Peace may appoint and swear in any number of Special constables to assist in the preservation of the Peace and of order at the election; and any person liable to serve as Constable and required to be sworn in as a Special Constable by the Returning Officer or Justice shall, if he refuses to be sworn in or to serve, be liable to a penalty of twenty dollars, to be recovered to the use of any one who will sue therefor. (c)

Special Constables may be sworn in.

PROCEEDINGS AT ELECTIONS.

97.—The proceedings at elections shall be as follow :

Elections, how conducted.

1. Every Returning Officer shall, unless otherwise provided by law, give at least ten days' previous notice of the election to be held by him, by posting the notice in at least four public places in the Municipality, Ward, Electoral Division, or Police Village. (d)

Notices.

(a) In general, the Returning Officer will act under this section upon his own view. But when, instead of acting on facts observed by himself or within his own knowledge, he acts on the information of others, it is suggested he should take the regular information, and proceed as any other magistrate would be required to do under like circumstances. (See 16 Vic. cap. 178) An example would be, when the complaint is an assault upon a voter coming to or returning from the election, committed at a distance from the poll. The main object of the section is however to empower the Returning Officer to act promptly on the spot in the hearing and determining of offences occurring at the poll; but in point of authority he is not so restricted.

(b) *Misdemeanor.* See note *r* to sec. 55.

(c) It is the design of this section to confer additional powers on the Returning Officers, &c., of which it behoves all persons liable to serve as special constables to be advised and take notice. The penalty may, it is apprehended, though not so expressed, be sued for in any court of competent jurisdiction, for instance in a Division Court.

(d) The notice of the intended election to be good, must be good both as to time and place. It must be given "at least ten days" and must be posted up "in at least four public places, &c." Now where a statute says a thing shall be done so many days, or so many days at least, before a given event, the day of the thing done and that of the event must both be excluded (*The King v. Justices of Shropshire*, 8 A. & E. 173; *Mitchell v. Foster*, 9 Dowl. P. C. 527.) Thus suppose the day for the intended election to be 3rd January, notice thereof,

The Clerk to deliver copies of the Assessment Rolls to the Returning Officer,

2. The Clerk of the Municipality shall deliver to the Returning Officer who is to preside at the election for the same, or for every or any Ward, or Electoral Division thereof, a correct copy of so much of the last revised Assessment-Roll for the Municipality, Ward, or Electoral Division, as contains the names of all male Freeholders and Householders rated upon the roll in respect of real property lying in the Municipality, Ward, or Electoral Division, with the assessed value of the real property for which every such person is so rated. (e)

With his declaration verifying the same.

3. The Clerk shall deliver with such copy his solemn declaration, to the effect that the copy is a true copy of so much of the said roll as relates to such Municipality, Ward or Electoral Division, and contains the names of all male freeholders and householders rated upon the roll in respect of real property lying in the Municipality, Ward or Electoral Division, with the assessed value of the real property for which they are so rated respectively. (f)

to be good, would require to be given at latest on 23rd December preceding. As to the posting of the notice in four public places at least, there is less room for doubt. The only difficulty, if any, likely to arise, is to what places are to be deemed "public." To obviate the difficulty, the Returning Officer has only to choose the four most public places in the Municipality, &c., and he will be safe. It is apprehended that where a newspaper is published in the locality, the notice will, in addition to posting up, be published in it for the requisite time, as being the most satisfactory mode of notification, though not the one authorized or required.

(e) The law requires the Returning Officer to be furnished with a correct copy of so much of the last revised assessment roll for the Municipality, &c., as contains the names of all freeholders rated upon the roll, &c., and it is obvious for what purpose. The purpose is, not to enable the Returning Officer himself to judge of the sufficiency or insufficiency of votes taken, but that all persons interested in the election may have a check at hand at the time of polling the votes. (*The Queen ex rel. Dundas v. Niles*, 1 U. C. Cham. Rep. 198; see also secs. 75, 76, 77.) Persons whose names are on the original roll, though omitted by accident from the copy, may it seems claim a right to vote; but not persons whose names are on the copy, though not on the original roll. (*The Queen ex rel. Hellivell v. Stephenson*, 1 U. C. Cham. Rep. 270.) The copy of the assessment roll furnished to the Returning Officer ought to be alphabetical, and if not so the Returning Officer should himself make it alphabetical. (*The Queen ex rel. Davis v. Wilson et al.* Chambers, Richards, J., 3 U. C. L. J. 165.) Where the Returning Officer used the original collector's roll, instead of a copy, having first announced that he intended to do so, and no one objected, *Held* that the election was valid. (*The Queen ex rel. Hall v. Grey et al.*, 15 U. C. Q. B. 257.)

(f) In framing the declaration required of the Clerk, he cannot do better than adopt the very words of this enactment. Thus: I, A. B.,

4. The Township Clerk shall also deliver to the Returning Officer who is to preside at the election for any police village in the township, a correct copy of so much of the said assessment roll as contains the names of all the male freeholders and householders in the village, and the amount for which they are respectively assessed, together with a like solemn declaration verifying the same, as in the case of municipal elections. (*g*)

Township Clerk to deliver Assessment Roll to Returning Officer for Police Villages.

5. The Returning Officer shall provide a poll-book ; and at every election at which a poll is demanded, he or his sworn poll-clerk shall enter in such book in separate columns the names of the candidates proposed and seconded by any electors present at the election, and shall opposite to such columns write the names of the electors offering to vote at the election, and shall in each column in which is entered the name of a candidate voted for by a voter set the figure 1 opposite the voter's name. (*h*)

Poll-book to be provided.

Its contents.

6. The Returning Officer shall commence every election at ten of the clock in the forenoon. (*i*).

Hour for commencing Elections.

7. The Returning Officer may close the election in one hour after commencing the same, if within that time no more candidates are proposed than by his writ he is to return ; but in case there are more candidates and a poll is demanded, he shall keep open the election till four of the clock in the afternoon of the first day, and then adjourn the same until ten of the clock in the forenoon of the next day, not being a Sunday or a legal holyday, and continue the same till four of the clock in the afternoon thereof, and no longer ; but if in the meantime he sees that all the electors intending to vote have had a fair opportunity of being polled, and if one full hour at one time has elapsed without any qualified elector during that time giving or tendering his vote, free access having been allowed to electors for the purpose, the Returning Officer may close the election at four o'clock of the first day, or at any earlier hour of the second day. (*j*)

Time of closing.

Clerk of, &c., do solemnly declare that the annexed is a true copy, &c. (*as in the statute*).

(*g*) A police village not being "a municipality," within the meaning of the statute (s. 402, subsec. 1), the necessity for this as a separate and independent provision is obvious.

(*h*) It is made the duty of the Returning Officer, not of the municipality, to provide the poll-book.

(*i*) Should the Returning Officer fail to comply with this clause, by reason of riot or other emergency, a remedy is provided. (Secs. 99, 100.)

(*j*) This sub-section, so far as material to the following observa-

WHAT OATHS HE MAY ADMINISTER.

Returning Officer may administer oaths.

8. The Returning Officer may administer all oaths or affirmations necessary at the election. (*k*)

OATHS AND QUESTIONS THAT MAY BE PUT TO ELECTORS.

The only oaths to be required of voters.

9. At any election, or at any public vote in respect of a by-law which requires the assent of the electors, the only oaths or affirmations to be required of any person claiming to vote, and appearing by the last revised assessment roll, if any (*l*), to have the necessary property qualification, are, that he is of the full age of twenty-one years, and is a natural-born or naturalized subject of her Majesty; that he has been, if a householder, a resident within the municipality for which the election is held or vote taken for one month next before the election, and that he has not before voted at the election or on the by-law (*as the case may be*); and that he is the person named in the last revised assessment roll, (*or, in case of a new municipality, in which there has not yet been any assessment roll,*) that he is a resident freeholder or householder in (*naming the property*

tions, is almost a literal copy of s. 159 of the repealed statute 12 Vic. cap. 81. The meaning of it is, that the Returning Officer shall keep the poll open throughout the first day till four o'clock, and if no voter shall come up to vote for an hour or more after he received the last vote on the first day and before he so closes at four o'clock, and if he shall see that all the electors intending to vote shall have had a fair opportunity of being polled, then he may close the poll finally at four o'clock on the first day. But it is not intended that after a pause of an hour in the early part of the first day without any voter coming up, he shall resume the polling notwithstanding as soon as a voter shall make his appearance, and so go on till four o'clock, and then close the poll finally. His resuming the polling in such a case will be taken as proof that the hour's delay which had occurred previously did not arise from the fact that all had then voted who intended to vote. (*Regina ex rel. Greely et al. v. Gilbert*, 16 U. C. Q. B. 263.) It is necessary that during the hours for polling, the electors shall have free access to the polling place. The fact that a large number of duly qualified electors could not cast their votes, is a sufficient reason for setting aside an election, if the result would have been affected by the unpolled votes. (*The Queen ex rel. Wilson v. Davis et al.*, Chambers, Richards, J., 3 U. C. L. J. 165.) In case, by reason of a riot or other emergency, the election is not commenced on the proper day, or is interrupted after being commenced, provision is made for an extension of the time for receiving votes. (Secs. 99, 100.)

(*k*) The Returning Officer should, on request of either of the candidates, or his agent, (whether such agent be or be not a duly qualified elector,) administer the necessary oaths or affirmations. (*The Queen ex rel. Gardiner v. Perry*; Chambers; Hagarty, J.; May 12, 1857.)

(*l*) If any: these words refer to new townships, &c., not previously assessed. (See sec. 71.)

entitling him to vote at the election); and that he has not directly or indirectly received any reward or gift, nor does he expect to receive any, for the vote which he tenders at this election (*m*). And such oaths shall be administered at the request of any candidate or elector. And no inquiries shall be made of any such person except with respect to the facts specified in such oaths or affirmations. (*n*)

10. The Returning Officer shall, at the close of the poll, add up the number of votes set down for each candidate, except for the office of mayor in cities and towns (*o*), and shall publicly declare the same, beginning with the candidate having the greatest number, and so on with the others, and shall thereupon publicly declare elected the candidate or candidates respectively standing highest on the poll. (*p*)

Returning
Officer to de-
clare result
of Election.

11. In case two or more candidates have an equal number of votes, the Returning Officer, whether otherwise qualified or not, shall give a vote for one or more of such candidates, so as to decide the election; and, except in such case, no Returning Officer shall vote at any election held by him. (*q*)

When to
have casting
vote.

98. The Returning Officer shall, within three days after the close of the election (*r*), return the poll-book to the Clerk of the municipality from whom he received the copy of the assessment roll (*s*), and also his solemn declaration thereto

Poll-books to
be returned
to the Clerk.

(*m*) Read notes on sec. 75, *et seq.*, which prescribe the qualification of electors.

(*n*) See note *k* above.

(*o*) As to which, see sec. 101, *et seq.*

(*p*) The duty of the Returning Officer is imperative. His failure in any material point to observe it, might invalidate the election.

(*q*) It would be well for Returning Officers to pay close attention to this clause. No Returning Officer, whether qualified as an elector or not, is allowed to vote at any election for which he is Returning Officer. The exception is, when two or more of the candidates have an equal number of votes. Then, whether otherwise qualified or not, he "shall give a vote for one or more (that is, when more than one is to be elected) of such candidates, so as to decide the election."

(*r*) Where a thing is to be done within a certain number of days from or after a given day, or an act done, the general rule is, that the first day on which the act is done, is to be reckoned exclusively. (*Young v. Heggan*, 6 M. & W. 49. See *Gibson v. Musket*, 3 Scott, N. R. 429.) Excluding the first day, or day on which the election closes, the poll-book is to be returned to the Clerk of the municipality within three days thereafter. Thus: if the election close on 4th of January, the poll-book ought to be returned at the latest on 7th of January.

(*s*) Sec. 97, subsec. 2.

annexed, that the poll-book contains a true statement of the poll, and his certificate of the persons (naming them) who have been duly elected. (*t*)

Election riotously broken up, to be resumed.

99. In case, by reason of a riot or other emergency (*u*), an election is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, (*v*) the Returning Officer shall hold or resume the election on the following day at the hour of ten o'clock in the forenoon, and continue the same from day to day if necessary, until the poll has been open without interruption and with free access to voters for twelve hours in all, or thereabouts (*w*), in order that all the electors so intending may have had a fair opportunity to vote.

If Election is prevented for four days, Poll-book to be returned, and a new Election ordered.

100.—But in case the Election has not, by the end of the fourth day from the day the same commenced or should have commenced, (*x*) been kept open for the necessary time, (*y*) the Returning Officer shall not return any person as elected, but shall return his poll-book on the following day to the Clerk of the Municipality, certifying the cause of there not having been an Election, and a new Election shall take place; (*z*) and the Head of the Municipality shall issue his warrant accordingly. (*a*)

(*t*) It is made the duty of the Returning Officer within the time limited not only to return the poll-book, &c., but his solemn declaration thereto annexed, &c., and his certificate, &c.

(*u*) *Riot or other emergency.* An emergency may be described as an event such as a riot, or occasional combination of circumstances, retarding or hindering the election, and calling for immediate remedy.

(*v*) Which ought to be four o'clock of the afternoon of the second day. (Sec. 97, sub-sec. 7.)

(*w*) It is not meant that the poll shall be kept open for twelve hours in succession, but twelve hours *in all*. The usual time is twelve hours, viz., from ten o'clock till four o'clock on each of the two days of polling, being six hours on each day. (Sec. 97, subsecs. 6 & 7.) The intention of this section is to ensure to the electors the full time. If, by reason of a riot or other emergency, an election is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing, the Returning Officer is to allow from first to last twelve hours for polling, though on several different days, not exceeding four in all. (Sec. 100.) This is to be done "in order that all the electors may have had a fair opportunity to vote."

(*x*) The proper hour for commencement of the poll is "ten o'clock of the forenoon" of the first day appointed. (Sec. 97, subsec. 6.)

(*y*) Twelve hours. (See note *w* to above.)

(*z*) The new election is to take place in case the election has not within four days been kept open twelve hours, and the Returning Officer has not returned any person as elected, but has certified the cause of the failure.

(*a*) As to heads of Municipal Corporations, see sec. 65.

ELECTION OF MAYORS OF CITIES AND TOWNS.

101.—Mayors of Cities and Towns shall be chosen by the Electors of such Cities and Towns, at the Annual Election to be held on the first Monday in January. (b) Election of Mayors.

102.—The qualification of a Mayor shall be the same as that of an Alderman in Cities, and of a Councillor in Towns. (c) Qualification of.

103.—A meeting of the Electors shall take place for the nomination of candidates for the Mayoralty, at the City or Town Hall, on the last Monday but one in the month of December, before the Annual Election, at ten of the clock in the forenoon. (d) Time and place for nominating.

104.—The City or Town Clerk respectively shall preside at such meeting, or, in case of his absence, the Council shall appoint a person to preside in his place. If the Clerk or the person so appointed does not attend, the Electors present shall choose a chairman or person to officiate from among themselves. (e) The Clerk to preside.

105.—Such Clerk or Chairman shall have all the powers of a Returning Officer. (f) With powers of a Returning Officer.

106.—If only one qualified candidate has been within one hour proposed by any elector present at such meeting, the Clerk or Chairman shall declare such Candidate duly elected Mayor. (g) If only one candidate proposed.

(b) The heads of the Councils of Cities and Towns are Mayors. (Sec. 65) Their election by the body of the electors is a new feature in Municipal law. Heretofore they were chosen by the members of the Councils respectively.

(c) See sec. 70.

(d) The nomination is also a new feature in the election of persons to fill municipal offices. It is only required in the case of Mayors. The mode in which it is to be done may be gathered from a perusal of the following sections.

(e) The Council should provide for the absence of the Clerk, if at all apprehended or expected. Should they fail to do so, the electors present may choose a chairman. Should the electors do so, it is submitted the chairman so chosen would have a right to conduct the nomination to its termination, notwithstanding the presence in the mean time of the Clerk, or a person appointed by the Council as his substitute.

(f) See sec. 95 *et seq.*

(g) The hour appointed for the nomination to take place is ten o'clock in the forenoon. (Sec 103.) If within one hour thereafter no more than one candidate be proposed, such candidate is to be declared elected.

If a Poll is demanded, the election to be by Wards.

107.—If more candidates than one are proposed, and if a poll be demanded, (*h*) the Clerk or Chairman shall on the following day post up in the Office of the Clerk the names of the persons proposed, and give notice thereof to the Returning Officer for every Ward.

Duration of poll.

108.—In case of a contest in an election for the office of mayor, the Returning Officer for every ward shall keep the poll open for the full time required by law for taking the votes, though there may be no contest for the other offices for which he holds the election. (*i*)

Poll-books to be kept, And return'd to the Clerk.

109.—Every Returning Officer shall enter in his poll-book, in separate columns, the names of the candidates for the office of mayor, as well as the names of the candidates for the offices

(*h*) A popular impression exists that the Returning Officer, &c., at an election, ought, when there are more candidates than are required to supply the vacancies, to take the show of hands, and that the omission to do so is an irregularity. (Clerk on Elections, 360.) The modern practice is, no doubt, in the first place to take the show of hands; but formerly there were several rude modes of expressing the opinion of the electors, which constituted an election by view,—either holding up of hands, calling out the names of candidates, or by dividing into separate bodies. (1 Whill. 393.) A show of hands is the mode of expression authorized by statute, in the case of the election of members of Parliament. (12 Vic. cap. 27, sec. 12.) It is usual for the candidate in the minority upon the show of hands to demand a poll. It is, however, apprehended that any elector may demand a poll. When a poll is demanded, it is, by the section under consideration, made the duty of the Clerk or Chairman, on the following day, to post up in the office of the Clerk the names of the persons proposed, and to give notice thereof to the Returning Officer for every ward. It is not clear whether the notice to the Returning Officer for each ward must be done on the day following the demand of a poll. That the notice must be posted up on that day, is clear beyond question, and the notice should of course be given without any unnecessary delay.

(*i*) The votes, where there is a contest, as well for the office of mayor as of the other offices for which the election is held, should be taken concurrently. It may, however, happen, either that there is no contest for “the other offices,” (aldermen, councilmen or councillors,) or that the election to those offices has taken place before the election of mayor is closed. In either event, or on any such event, the poll must be kept open to receive the votes for mayor “for the full time required by law,” viz., twelve hours. (See sec. 97, sub-sec. 7; secs. 99, 100, and notes thereto.) The object of this section is to provide against any misapprehension on the subject. If the Returning Officer see that all the electors intending to vote for mayor have had a fair opportunity of being polled, and if one full hour has elapsed at any one time without any qualified elector during that time giving or tendering his vote, &c., the Returning Officer may, it is apprehended, close the poll. (See note *g* to sec. 97.)

of aldermen and councilmen in cities, or of councillors in towns, and shall, in the column in which is entered the name of a candidate for mayor voted for by any voter, set the number 1 opposite the voter's name. (*i*)

110.—Every Returning Officer shall, on the day after the close of the poll (*j*), return the poll-book to the City or Town Clerk, verified as to the election of mayor, as well as in the other particulars required by this Act. And returned to Clerk.

111.—The City or Town Clerk shall add up the number of votes set down for each candidate for mayor in the respective poll-books so returned, and ascertain the aggregate number of such votes; and in case a poll has been taken, and the poll-books have been returned for every ward, the Clerk shall, at the City or Town Hall, at noon of the day following the return of the poll-books, declare elected the candidate having the largest number of votes polled. (*k*) Returning Officer to add up Poll and declare the result.

112.—In case there is no majority for any one candidate, the Clerk shall declare that two or more candidates (naming them) have an equal number of votes (*l*); or in case no return has been made for one or more wards, in consequence of no election having been held therein, or of the election having been interrupted through riot or other cause, he shall declare the want of returns for such ward or wards, and the cause thereof. (*m*) If no majority for any candidate.

(*i*) Only one poll-book is required, and that is to contain in separate columns the names of the candidates for the office of mayor, as well as the names of the candidates for the offices of aldermen and councilmen in cities, or of councillors in towns, &c.

(*j*) There is to be only one poll-book, as explained in the last note. That poll-book is, under sec. 98, to be returned to the Clerk "within three days after the close of the election," or, under the section here annotated, "on the day after the close of the poll." Here, as regards cities and towns, there is an inconsistency. To be on the safe side, the Returning Officer of a city or town had better, when possible, in every case return his poll-book "on the day after the close of the poll."

(*k*) It does not appear to be necessary that a candidate to be successful, should have a majority of the whole number of votes polled, but to have "the largest number of votes polled" that is polled for any one candidate. In the event of there being an equality of votes for two or more candidates, the election is to be decided under sec. 115 of this Act.

(*l*) The power of the Clerk, under this section, to declare that two or more candidates (naming them) have an equal number of votes, is to exist only "in case there is no majority for any one candidate."

(*m*) The want of the returns is to be declared with a view to future action.

Mayor to
take oath of
office on first
day of
meeting.

113.—The mayor elect shall make and subscribe the necessary declarations of office and qualification on the day appointed for the first meeting of the Council (*n*), and shall afterwards administer the necessary declarations to the other members of the Council. (*o*)

All the Mem-
bers to be
sworn, &c.

114.—No other business shall be proceeded with at the said meeting until the said declarations have been administered to all the members who present themselves to take the same. (*p*)

If votes for
Mayor equal.

115.—In case two or more candidates for Mayor have an equal number of votes (*q*), the members of the Council shall take the necessary declarations before the Clerk (*r*), and shall after doing so organize themselves as a Council by electing as Mayor one of such candidates (*s*); the Clerk presiding at the Election.

(*n*) For the terms of the declaration, and before whom to be made, see secs. 175, 177, 179.

(*o*) It is enacted by sec. 179 that “the head and other members of the Council, &c., shall make the declaration of office and qualification before some court judge, recorder, police magistrate or other justice of the peace having jurisdiction in the municipality,” &c. In the section under consideration it is directed that “the mayor shall administer the necessary declarations to the other members of the Council.” Between the two there is an apparent inconsistency, unless this is to be taken as a special provision regarding mayors, and sec. 179 as a general provision for all other cases in which there can be no head till the members are sworn in and a head elected. If this is not the correct view, the two sections may be reconciled in this manner: The mayor is an officer or justice of the peace (sec. 340), and administering the declarations he may be taken to do so as mayor under sec. 113, or as a justice of the peace under sec. 179. It would have been better had the word “mayor” been mentioned after “recorder,” in sec. 179; but there appears to be no good reason, taking sec. 113 and sec. 179 together, to doubt the power of the mayor in this respect.

(*p*) It is apprehended that before electing a Mayor when that election, under sec. 115, devolves upon the Council, the members ought to take the necessary declarations. Such an election would, it is believed, be deemed “business” within the meaning of this section. Indeed, were there any doubt in the reading of the section alone, the reading of it in common with the following section (*s*. 115) would remove the doubt.

(*q*) Or be, it is presumed, returned as having such, under sec. 112.

(*r*) The Clerk is not only authorized under this section, but under sec. 179, to administer the necessary declarations. So that there is no doubt as to his right to administer the declarations under all circumstances.

(*s*) The inference is that the members elect are not organized as a Council until the head is elected. They are to “organize themselves

116.—In case no return is made for one or more Wards in consequence of non-election, owing to interruption by riot or other cause (*t*), the members of Council elect being at least a majority of the whole members of the Council when full (*u*), shall elect one of the Aldermen elect in Cities, or one of the Councillors elect in towns, to be the Presiding Officer, at which election the Clerk shall preside (*v*), and such Officer shall take the necessary declarations (*w*), and possess all the powers of Mayor, until a poll for such Ward or Wards has been held under a warrant in the manner provided for in the one hundred and twenty-second section of this Act. (*x*)

If no return for one or more Wards, a temporary Head to be elected by the Council.

117.—When a Poll has been duly held in each of such Wards, and the poll-books returned to the Clerk, the Clerk shall add up the number of votes for Mayor therein set down for the respective candidates, and ascertain the aggregate number of votes for Mayor contained in such last mentioned poll-books, together with the votes contained in the poll-books previously returned for the other Wards, and shall, at noon on the next day, at the City or Town-Hall, declare elected Mayor, the candidate having the greatest number of votes polled (*y*), or declare that there is an equality of votes for two or more candidates, (*as the case may be.*)

When Poll completed, clerk to add up votes and declare result; when and where.

as a Council *by* electing as Mayor one of such candidates." It requires "a majority of the whole number of members required by law to constitute the Council and form a quorum," (sec. 140) and it is submitted that without such a quorum the Council cannot proceed under this section. This construction is borne out by the section following, (sec. 116) where it reads "the members of the Council, being at least a majority of the whole members of the Council when full."

(*t*) See sec. 112.

(*u*) See notes to preceding section.

(*v*) *Shall elect one*, &c., of course having previously taken the necessary declarations of qualification and of office (see note *p* to sec. 114).

(*w*) The declarations to be taken before one of the public officers mentioned in sec. 179.

(*x*) The election being of course only a temporary one, and the necessity for it being an essential to the organization of the Council (see note *s* to section 115). This section is designed to ensure a return from every ward, before the right to the office of Mayor is finally determined.

(*y*) It is the duty of the Clerk, at the time and place named to declare elected Mayor the candidate "having the greatest number of votes polled," as to which, see note *k* to sec. 111.

In case of equality the Council to decide.

118.—In case of an equality of votes, the Council shall appoint as Mayor one of the candidates between whom the equality exists. (*z*)

Declaration and assumption of office.

119.—The person so elected or appointed shall forthwith make the declaration in manner provided for Mayors (*a*), and assume the office of Mayor accordingly.

Mayor to be the Head of the Council; his duties.

120.—The Mayor shall be deemed the Head of the Council, and the head and chief executive officer of the Corporation; and it shall be his duty to be vigilant and active at all times in causing the Law for the government of the City to be duly executed and put in force; to inspect the conduct of all subordinate officers in the government thereof, and as far as may be in his power, to cause all negligence, carelessness and positive violation of duty to be duly prosecuted and punished, and to communicate from time to time to the Council, all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, and ornament of the City. (*b*)

ELECTION WHEN SEATS VACATED, &c.

Seats vacated by insolvency, absence, &c.

121.—In case a member of the Council (*c*) is convicted of felony or infamous crime, or is declared a Bankrupt, or is charged in execution for debt and remains in close custody, or upon the Gaol Limits for one calendar month, or applies for Relief as an Insolvent Debtor, or assigns his property for the benefit of creditors (*d*), or absents himself from the meetings of the Council for three months without being authorized by a resolution of the Council entered on its minutes (*e*), his seat in the Council shall thereby become vacant. (*f*)

(*z*) See sec. 115. As to the effect of the appointment, see note *x* to sec. 116.

(*a*) See secs. 113, 175, 176 and 179.

(*b*) This is the first time that in the Municipal Law of Upper Canada an attempt has been made to define the duties of Mayors.

(*c*) This and the following sections are general in their application. They do not relate exclusively to Mayors of Cities and Towns, but to members of the Council and not only to the members of City and Town Councils but to the members of all Municipal Councils.

(*d*) Among the several contingencies enumerated, death is omitted, but of death the necessary consequence is a vacancy of office. (See secs. 122, 148, and 149.)

(*e*) If the member absent himself with the authority of the Council, a resolution to that effect ought by the Clerk to be carefully entered on the minutes.

(*f*) If any of the events described should happen, the seat *thereby* becomes vacant. No judgment on a *quo warranto* is necessary to make it void.

122.—In any case provided for by the one hundred and sixteenth or one hundred and twenty-first sections (*g*), or in case a person elected to a Council neglects or refuses to accept office or to make the necessary declarations for office within the time required (*h*), or in case a vacancy occurs in the Council caused by death, judicial decision or otherwise (*i*), the Head of the Council for the time being, or in case of his absence or of his office being vacant, the Clerk, or in case of the like absence or vacancy in the office of the Clerk, one of the members of the Council (*j*), shall forthwith (*k*), by warrant under the signature of such Head, Clerk or Member, and under the Corporate Seal, require the Returning Officer appointed to hold the last Election for the Municipality, Ward and Electoral Division respectively, or any other person duly appointed to that office, to hold a new Election to fill the place of the person neglecting or refusing as aforesaid, or to fill the vacancy. (*l*)

New
Elections
provided for.

123.—The person thereupon elected shall hold his seat for the residue of the term for which his predecessor was elected or for which the office is to be filled. (*m*)

Term of
office.

(*g*) That is, in case a new Ward Election is required under sec. 116, or a seat has been vacated under sec. 121.

(*h*) *i. e.*, on the day appointed for the first meeting of the Council, see sec. 113.

(*i*) *Or otherwise*—The object is to provide for every state of circumstances that may render a new election necessary. It is a question how far this section and sec. 148 are reconcilable. Each provides, apparently, for a vacancy in the office of “head of the Council,” and each gives a mode different from the other for filling the office. Probably sec. 148 may be held to apply to “Heads of Councils” who are not elected by the people, that is to all heads of Councils except Mayors.

(*j*) The order must be observed. First, the head; if no head, then the Clerk; if neither head nor Clerk, then one of the members of the Council.

(*k*) Where a thing is directed to be done by a Statute “*forthwith*” it means within a reasonable time. (*The King v. Justices of Worcester*, 7 Dowl P. C. 789.) The word “*immediately*” is more strictly construed. (*The King v. Justices of Huntingdonshire*, 5 D. & R. 588. *The Queen v. Aston*, 1 L. M. & P. 491.)

(*l*) The person to be appointed is the person who was appointed to hold the last past election, unless some other has been appointed by the Council to hold casual elections, or to hold the particular election. It does not appear to be left to the discretion of the Head, Clerk, or Member, who issues the warrant to nominate the Returning Officer. The warrant is to be under the signature of the person issuing it, and to be under the seal of the Corporation.

(*m*) The general election of Mayors is to take place at the annual general election, on the first Monday in January in each year.

Non-election
of Members
not to pre-
vent organ-
ization of
Council.

124.—In case such non-election (*n*), neglect or refusal as aforesaid (*o*), occurs, previous to the organization of the Council for the year (*p*), the warrant for the new Election shall be issued by the Head or a Member of the Council for the previous year, or by the Clerk in like manner as provided for by the one hundred and twenty-second section (*q*), but such neglect or refusal shall not interfere with the immediate organization of the new Council, provided a majority are present of the full number of the Council. (*r*)

Time for
holding and
notice of new
Election.

125.—The Returning Officer shall hold the new election at furthest within eight days after receiving the warrant (*s*), and shall, at least four days before the election (*t*), post up a public notice thereof under his hand in at least four of the most public places in the municipality, ward, or electoral division. (*u*)

APPOINTMENTS IF ELECTION NEGLECTED.

Appoint-
ment if elec-
tion neglect-
ed or
declined.

126.—In case at any annual or other election the electors, for any cause not provided for by the 99th and 100th sections (*v*), neglect or decline to elect the members of Council for a municipality on the day appointed, or to elect the requisite number of members (*w*), the other members of the Council, or if there are none, then the members for the preceding year, or the majority of them respectively, shall appoint as many qualified persons as will constitute or complete the number of

(*n*) See sec. 116.

(*o*) See sec. 122.

(*p*) The organization of the Council is effected by the members elect (being at least a majority of the full number of the Council) making the necessary declarations, and then electing a head, except in cases where the Mayor has been elected by public vote, in which event the Council is organized whenever the necessary declarations have been made by the Mayor and at least a majority of the whole number of members of the Council. (See secs. 115 and 132.)

(*q*) See note *j* sec. 122

(*r*) See note *p* above.

(*s*) As to computation of time, see note *r* to sec. 98.

(*t*) As to computation of time in this case, see note *d* to sec. 97.

(*u*) As to notice, see note *d* to sec. 97.

(*v*) Which provides for the failure of an election by reason of a riot or other emergency.

(*w*) The power to proceed under this section may be exercised, *first*, in case the electors neglect or decline to elect the necessary members on the day appointed for the election, and, *secondly*, in case they neglect or decline to elect the requisite number of members.

members requisite (x); and the persons so appointed shall

(x) There is a difference between an election and an appointment. (*The Queen ex rel. Beatty v. O'Donoghoe et al.* 3 U.C. L.J. 75; see also sec. 129 of this Act.) An *election*, whether by the electors at large or by the members of the Council, is by vote, and usually consists in the choice of the members of the Council by the electors of the municipality, or of the head of the Council by the members of the Council elect,—both of which proceedings are in general essential to the organization of the Council. (Note *p* to sec. 124.) An *appointment* is, properly speaking, an act of the Council after it has been organized. Thus: the Clerk and other officers are appointed, not elected, by the Council. (See sec. 150.) The section under consideration speaks of appointments—not of elections. It therefore becomes material to consider precisely under what circumstances the power of appointment under the section can be exercised. If there be an *entire* failure to elect members on the day fixed for the purpose, the power to appoint would of course devolve on the Council of the preceding year, which, having been duly organized, continues in office until superseded by the organization of a new Council. But if the failure to elect be only *partial*—that is to say if the failure be to elect the requisite number of members—there is more difficulty in interpreting the meaning of the Legislature, as expressed in this section. In such an event, it is declared that “the other members of the Council, or if there be none, then the members for the preceding year, or the majority of them respectively, shall appoint,” &c. Does the word “majority” refer to the new or incomplete council, or does it refer only to the old and complete council? If it refers to the former as well as the latter, does it do so under all circumstances? Is there any difference in this respect between a majority and a quorum? Is it necessary that there should be such a majority as constitutes a quorum? There is much room for argument, and the Editor cannot do more, in the absence of decided cases, than express his individual conviction. It requires a majority of the *whole* number of members of a council to form a quorum. (Sec. 140.) The decision of the question turns more or less on the word “majority.” As applied to the old council, it undoubtedly implies a majority of the whole number of members. If applicable to the new council, the question is, whether it means a majority of the *full* members of that council also, or only a majority of those elected, though less than a majority of the whole: in other words, whether the expression, “or if there are none,” means none at all, or none competent to organize as a council. Less than a majority of the whole number of members requisite could not, it is apprehended, organize. But even on the word “requisite,” as used in the section, the same question presents itself in another form. Does it mean requisite to complete the full number of the council, or only requisite to complete a sufficient number to enable them to organize? If, when the council is incomplete, the members elect, no matter how few or how many, could appoint the remainder, and if, from any cause, a minority of the whole council only were chosen, it would devolve upon the minority to appoint the majority—a thing which, it is submitted, the Legislature never contemplated. Were this the case, in the city of Toronto for instance, with a council ordinarily of twenty-four members, if from any cause, returns should be

accept office and make the necessary declarations under the same penalty in case of refusal or neglect, as if elected. (*y*)

CONTESTED ELECTIONS OR APPOINTMENTS.

Trial of contested Elections. |

127.—In case the validity of the election or appointment (*z*) of a Mayor, Warden, Reeve, Deputy Reeve, Alderman, Councilman, Councillor, or Police Trustee, is contested, a Judge of either of the Superior Courts of Common Law, or the senior or officiating Judge of the County Court of the County in which the election took place, may, in term or vacation, try the validity thereof (*a*); and any candidate at the election, or any elector who gave or tendered his vote thereat, may be the relator for the purpose. (*b*)

made by one ward only, the two aldermen and two councilmen chosen for that ward would have it in their power to appoint the remaining twenty members of the council. This would be absurd, and dangerous to municipal government. It is upon the whole submitted, but not without some doubt, that to enable a new but incomplete council to appoint under this section, there must be elected at least a majority of the whole number necessary to enable the council to organize; and that if there be not that number, or if there be none, it devolves upon the Council of the preceding year to appoint all (or the number deficient) of their successors.

(*y*) See sec. 175, *et seq.*

(*z*) The difference between an election and an appointment is explained in note *x* to the preceding section. Before the passing of this act, the courts had not power, under the municipal acts then existing, to determine the validity of an appointment. (*The Queen ex rel. Beatty v. O'Donaghoe et al*, 3 U. C. L. J. 75.)

(*a*) The trial of a contested election may be had by any Judge of either of the superior courts of common law, or by the senior or officiating Judge of the county court, &c., all of whom possess concurrent jurisdiction, which jurisdiction is exercisable either in term or vacation.

(*b*) The relator is the person upon whose application the jurisdiction of the Judge is put in motion. It is to be observed that "any candidate at the election, or any elector who gave or tendered his vote at the election," may be a relator. The right to be a relator is thus confined to two classes; first, candidates; second, electors; and the right of the latter is restricted to such electors as either voted or tendered their votes at the election. It is presumed that if the election of a head of a corporation, not being a mayor of a city or town, be questioned, any member of the council who either voted or tendered his vote for such head, would be an "elector" within the meaning of the section. If an election or an appointment be questioned by any other than the two classes mentioned, it must be done, not by the summary mode pointed out in the next succeeding section, but by the more expensive and dilatory course of an information in the nature of a *quo warranto*. (See *The Queen ex rel. Davy v. Bogart et al*. 2

PROCEEDINGS FOR THE TRIAL THEREOF.

128.—The proceedings for the trial shall be as follows :

1.—If within six weeks after the election, or one calendar month after acceptance of office by the person elected (*c*), the relator shows by affidavit (*d*) to any such Judge (*e*) reasonable grounds for supposing that the election was not conducted according to law, or that the person declared elected thereat was not duly elected (*f*); and if the relator enters into a recognizance before the Judge, or before a commissioner for taking bail, in the sum of two hundred dollars, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of one hundred dollars each, conditioned to prosecute the writ with effect or to pay the party against whom the same is brought any costs which may be

Time for limited, and security and proof required.

U. C. Prac. Rep. 18.) It is not necessary that a relator who was a candidate should show in his application to oust the successful candidate that he himself is qualified to accept office. (*The Queen ex rel. Mitchell v. Adams*, 1 U. C. Cham. R. 203.) An elector who himself has been instrumental in electing a candidate, will not be allowed afterwards to complain of the election of that candidate upon the ground of his being a contractor, &c., unless he the elector show that at the time of the election he was ignorant of the disqualification of the candidate. (*The Queen ex rel. Loyall v. Ponton*, 2 U. C. Prac. Rep. 18.) Upon similar principles it has been held that a councillor who is instrumental in the election of a particular person as Reeve or Deputy Reeve, cannot afterwards be allowed to move against the person so elected Reeve or Deputy Reeve. (*The Queen ex rel. Rosebush v. Parker*, 2 U. C. C. P. 15.)

(*c*) The first point for consideration is the time within which the application is to be made, that is, "within six weeks after the election, or one calendar month after the acceptance of office by the person elected." In the computation of the six weeks, the day of the election is to be excluded. So it would appear that six weeks at all events is allowed, to impeach the election, although the office may have been accepted more than a calendar month. If the application be not made within the six weeks, the test is then whether the office has been accepted more than one calendar month. (*The Queen ex rel. Rosebush v. Parker*, 2 U. C. C. P. 15.)

(*d*) It seems, though it has not been expressly decided, that the attorney of the relator may act as a commissioner for taking the recognizance and affidavit. (*The Queen ex rel. Blaisdell v. Rochester*, 12, U. C. Q. B., 630.)

(*e*) Any such Judge. See note *a* to sec. 127.

(*f*) The grounds of the application are here specified, viz. either that the election was not conducted according to law, or that the person declared elected was not duly elected. In one sense the first branch of the clause involves the second. If the elections have not been conducted according to law, the person declared elected could not in all probability be "duly elected." But the converse of the rule will not

Writ of *quo warranto*.

adjudged to him against the relator (*g*), the Judge shall direct (*h*) a writ of summons in the nature of a *quo warranto* (*i*) to be issued to try the validity of the election. (*j*)

When the Relator claims to be elected.

2.—In case the relator alleges that he himself or some other person has been duly elected, the writ shall be to try the validity both of the election complained of, and the alleged election of the relator or other person. (*k*)

When several are complained of.

3.—In case the grounds of objection apply equally to two or more persons elected, the relator may proceed by one writ against such persons. (*l*)

All to be tried by the same Judge.

4.—Where more writs than one are brought to try the validity of an election, all such writs shall be made returnable before the Judge who is to try the first; and such Judge may give one judgment upon all, or a separate judgment upon each one or more of them, as he thinks fit. (*m*)

hold. The election may have been conducted according to law, and yet the person declared elected not have been duly elected, as where he is not qualified to be elected. The clause is expressed in the alternative to meet both these cases, or other similar cases.

(*g*) For *form* of recognizance, see APPENDIX.

(*h*) For *form* of fiat, see same.

(*i*) For *form* of writ, see same.

(*j*) The ordinary mode of calling in question the right of a person to an office, and when elected or appointed, of indirectly determining his election or appointment, is an information in the nature of a *quo warranto*. (Cole on Informations, 138.) This mode is both slow and expensive. The mode given by this statute is, so far as it goes, a substitute. It is attended with little expense, and is of a most summary nature. Where the objection urged against an election on an application under the Statute was a material one, and the application being irregular, the relator notified defendant not to appear, it was held that the same relator was not precluded from making a second application. (*The Queen ex rel. Metcalfe v. Smart*, 10 U. C. Q. B. 84.)

(*k*) It seems to be well understood that before a Judge will entertain an application, not merely to make void the election of the party complained against, but to declare the relator or some other person elected in his stead, it must be shown, to the satisfaction of the Judge, that notice had been given of the disqualification of the successful candidate at such a time and in such a manner as must have made the electors aware that if they voted for that candidate their votes would be thrown away. (*The Queen ex rel. Clark v. McMullen*, 9 U. C. C. B. 467.)

(*l*) It has been held that a private relator has no right by a writ of summons, in the nature of a *quo warranto*, either to attack the Township Council by name upon grounds which, if mentioned, must necessarily lead to a dissolution of the body, or to attack the whole Council in one proceeding, through the individual names of every member of it. (*The Queen ex rel. Lawrence v. Woodruff*, 8 U. C. Q. B., 336.)

(*m*) At an election there may be several candidates—so there may

5.—The writ shall be issued by the Clerk of the process of the said Superior Courts, or by the Deputy Clerk of the Crown in the county in which the election took place, and shall be returnable before the Judge in Chambers of the Superior Courts at Toronto, or before the Judge of the County Court at a place named in the writ (*m*), upon the eighth day after service, computed exclusively of the day of service, or upon any later day named in the writ. (*n*)

Writ, who to issue, and return day thereof.

6.—The Judge before whom the writ is made returnable, or is returned (*o*), may, if he think proper, order the issue of a writ of summons, at any stage of the proceedings, to make the Returning Officer a party thereto.

Returning Officer may be made a party.

7.—Every writ under this section shall be served personally (*p*), unless the party to be served keeps out of the way to

Service to be personal, unless excused by Judge.

be several persons elected to office. In townships, for instance, a councillor for each ward. In cities, two aldermen and two councilmen for each ward. One person may see fit to contest the election of any successful candidate. So another person may see fit to contest the election of another of the successful candidates. Each relator complying with this Statute, may have his own separate and independent writ. In this way there may be several writs brought to try in fact the validity of the same election. When such is the case, all the writs are to be made returnable before the Judge who is to try the first. One object is obvious, and that is to preserve uniformity of decision.

(*n*) Although a County Court Judge may grant a fiat for the writ, it is always to be issued out of one of the superior courts. It is suggested that the fiat should state before what Judge the writ is to be returnable. It is conceived that a writ declared to be issued by a County Court Judge ought to be made returnable before himself, and that when it is issued by a Judge of the Superior Courts, it ought to be made returnable before the presiding Judge in Chambers.

(*o*) "Is made returnable, or is returned." This expression appears to be used in order that a writ "returnable" on the face of it before a Judge named therein may be "returned" to and acted upon by any Judge presiding in Chambers, or the Judge presiding in the County Court for the time being, according as the Judge mentioned in the writ belongs to a superior or an inferior court.

(*p*) "Personal service" of a writ has never been defined by the legislature. Each case is left to depend on its own particular circumstances. The Courts have not held it necessary to put process into the actual corporeal possession of the defendant to constitute personal service, but have looked more to the object of the service—timely notice to defendant of intended legal proceedings against him. (Har. C. L. P. A., note *f* to sec. 34, p. 73). In general a copy of the writ should be left with defendant, and the original shown to him if he desire to see it. (*Goggs v. Huntingtower*, per Alderson B. 1 D. & L. 599) The copy of the writ must be left with, and not merely shown to defendant. (*Worley v. Glover*, 2 Str. 877.) Though defendant

avoid personal service; in which case the Judge (*q*), upon being satisfied thereof by affidavit or otherwise, may make an order for such substitutional service as he thinks fit. (*r*)

The Council
or an Elector
may inter-
vene.

8.—The Judge before whom the writ is returned may allow any person who was entitled to vote at the election to intervene and defend the election, and may grant a reasonable time for the purpose (*s*); and any intervening party shall be liable or entitled to costs, like any other party to the proceedings. (*t*)

Judge shall
try summar-
ily.

9.—The Judge shall, in a summary manner, upon statement and answer without formal pleadings, hear and determine the validity of the election (*u*), and may by order cause the assessment rolls, collectors rolls, poll books, and any other records of the election, to be brought before him, and may inquire into the facts on affidavit or affirmation, or by oral testimony, or by issues framed by him and sent to be tried by jury by writ of trial directed to any court named by the Judge, or by one or more of these means, as he deems expedient. (*v*)

And remove,
admit or
confirm.

10.—In case the election complained of is adjudged invalid, the Judge shall forthwith, by writ, cause the person found not to have been duly elected to be removed; and in case the Judge determines that any other person was duly elected, the Judge shall forthwith order a writ to issue causing such other person to be admitted; and in case the Judge determines that

refuse to take the copy, if the person serving it bring it away with him, the service will be defective, (*Pigeon v. Bruce*, 8 Taunt 410,) where the copy was thrust through the crevice of a door to defendant, who had locked himself within, the service was held to be sufficient. (*Smith v. Wintle*, Barnes 405.) Service upon a wife, agent, or servant, is not personal service. (*Frith v. Donegal*, 2 Dowl P. C. 527; *Davies v. Margon*, 2 C. & J. 237; *Goggs v. Huntingtower*, 1 D. & L. 599; *Christmas v. Eicke*, 6 D. & L. 156.) See further note *f* to sec. 34 of the editor's work on the Common Law Procedure Acts.

(*q*) *i. e.*, the Judge before whom the writ is returnable or returned.

(*r*) Such as sticking up the copy in the Crown Office, or office of Deputy Clerk of the Crown. (See note *d* to sec. 45 of the editor's work on C. L. P. Acts, 1856.)

(*s*) No elector unless one who has either voted or tendered his vote at the election, can be a relator, (see note *b* to sec. 127,) but any person entitled to a vote may appear and defend the election under the clause here mentioned. The distinction deserves to be noted.

(*t*) See note *e* to subsec. 16, p. 62.

(*u*) The power is not only to hear but to *determine*, and the determination is final. (See note *f* to subsec. 17, p. 63.)

(*v*) For *form* of writ of trial, see APPENDIX.

no other person was duly elected instead of the person removed, the Judge shall by the writ cause a new election to be held (*w*)

11.—In case the election of all the members of a Council is adjudged invalid, the writ for their removal and for the election of new members in their place, or for the admission of others adjudged legally elected, and an election to fill up the remaining seats in the Council, shall be directed to the Sheriff of the county in which the election took place (*x*); and the sheriff shall have all the powers for causing the election to be held, which a Municipal Council has in order to supply vacancies therein. (*y*)

If all the Members ousted, &c., writ for new Election to go to the Sheriff.

12.—Any person whose election is complained of may, within one week after service on him of the writ (*z*), transmit, post-paid, through the post office, directed to "The Clerk of Judge's Chambers, at Osgoode Hall, Toronto," or to "The Judge of the County Court," of the County of ——— (as the case may be); or may cause to be delivered to such Clerk or Judge a disclaimer, signed by him, to the effect following: (*a*)

Defendant may disclaim.

How to proceed.

"I, A. B., upon whom a writ of summons in the nature of a *quo warranto* has been served, for the purpose of contesting my right to the office of Township Councillor (or as the case may be) for the township of ———, in the county of ——— (or as the case may be), do hereby disclaim the said office, and all defence of any right I may have to the same.

"Dated the ——— day of ———, 185 .

"(Signed) A. B."

(*w*) For forms of writ to meet these three several cases, see APPENDIX.

(*x*) For form of writ, see APPENDIX.

(*y*) Sections 90 and 122 of this act, taken together, show that the Sheriff is to appoint a Returning Officer when an old, has been superseded by a new Council. Where the members of the new Council have been ejected there can be no longer any councillors in possession of the office. The object therefore of this clause is to enable the Sheriff to take the steps necessary to the election or admission of new members with a view to the re-organization of the Council.

(*z*) The writ is to be generally made returnable on the eighth day after service, computed exclusively of the day of service (subsec. 5, p. 59); and the design of this clause is, that the disclaimer, if any should be filed before the writ is returned.

(*a*) When the writ has been issued by direction of a Judge of one of the Superior Courts and is returnable before a Judge of any such court, the disclaimer should be addressed, "To the Clerk of Judge's Chambers, at Osgoode Hall, Toronto," or if returnable before the Judge of the County Court, then to "The Judge of the County Court of the County of, &c." In either case, the disclaimer so addressed

Registry of
Disclaimer.

13.—Such disclaimer, or the envelope containing the same, shall moreover be endorsed on the outside thereof with the word “Disclaimer,” and be registered at the Post Office where mailed. (b)

Disclaimer
to be deliver-
ed to Clerk.

14. Every person so disclaiming shall deliver a duplicate of his disclaimer to the Clerk of the Council, and the Clerk shall forthwith communicate the same to the Council. (c)

Costs pro-
vided for.

15. No costs shall be awarded against any person disclaiming as aforesaid, unless the Judge is satisfied that such party consented to his nomination as a candidate or accepted the office, in which cases the costs shall be in the discretion of the Judge. (d)

When dis-
cretionary.

16. In all cases, not otherwise provided for, costs shall be in the discretion of the Judge. (e)

may, if preferred, be mailed or else be delivered to the proper Judge or Clerk. If mailed, the envelope must on the outside be endorsed with the word “disclaimer.” The letter must also be registered in the office where mailed. (Sub-sec. 13.)

(b) See preceding note.

(c) This is to apprise the council that the party no longer claims a seat therein. It is made the duty of the Clerk “forthwith” to communicate, &c., as to which see note *k* to sec. 122.

(d) The rule is that the costs of a contested election are in the discretion of the Judge. (Sub-sec. 16.) The exception is where a regular disclaimer is made within the time limited for the purpose, in which case no costs are to be awarded against the party who disclaims. If, however, the Judge be satisfied that the party “consented to his nomination as a candidate, or accepted the office,” the case comes within the rule, and not the exception.

(e) It was held under Statute 16 Vic. cap. 181, sec. 27, that the Judge had a discretion to withhold costs altogether from either side, if he so thought fit (*The Queen ex rel. Swan v. Rowat*, 13 U.C.Q.B. 340), or to distribute the costs, that is, to order each party to pay his own costs. (*The Queen ex rel. Gardiner v. Perry*; Chamber’s; Hagarty, J.; May 12, 1857.) Where it was sworn that intending voters for an unsuccessful candidate were obstructed in the approach to the polling place by a crowd under the control of one of the successful candidates, and neither the fact of the obstruction nor the control was unequivocally denied by that candidate, the election as to him was set aside with costs. (*The Queen ex rel. Gibbs v. Branighan*, Chambers, Richards J. 3 U. C. L. J. 127.) It may be stated that the tendency of modern decisions is not to make a party pay costs unless it be shown that he himself participated in the improper conduct for which the election is set aside. (*The Queen ex rel. Davis v. Wilson, et al.*, Chambers, Richards, J., 3 U. C. L. J. 165.) As to Table of Costs taxable, see APPENDIX.

17. The decision of the Judge shall be final, and he shall, immediately after his judgment, return the writ and judgment with all things had before him touching the same into the Court from which the writ issued, there to remain of record as a judgment of the said Court; (*f*) and he shall, as occasion requires, enforce such judgment by a writ in the nature of a writ of peremptory *mandamus*, and by writs of execution for the costs awarded. (*g*)

Judge to return his judgment to the Court in Term; it shall be final

18. The Judges of the Superior Courts of Common Law, or a majority of them, may, by rules made in Term time, settle the forms of the writs of summons, certiorari, *mandamus* and execution, and may regulate the practice respecting the suing out, service and execution of such writs, and the punishment for disobeying the same or any other writ or order of the Court or Judge, and respecting the practice generally, in hearing and determining the validity of such elections or appointments, and respecting the costs thereon; and may from time to time rescind, alter or add to such rules: but all existing rules shall remain in force until rescinded or altered as aforesaid. (*h*)

The Judges to make rules, &c.

129. The appointment of members of Municipal Councils when required to be made under this Act shall be deemed elections within the preceding section, and in such cases the relator may be any member of the council or any elector of the municipality or ward for which the appointment was made. (*i*)

Appointments equivalent to Elections.

(*f*) Under the old act, leave was given to appeal from the decision of the Judge, to the full Court. (*See The Queen ex rel. McKeown v. Hogg*, 15 U. C. Q. B. 140.) That privilege was in this bill when introduced to the Assembly but was struck out in committee. The object no doubt is effectually to ensure the summary relief intended. The elections being annual, the delays caused by appeals are calculated to frustrate the objects of an application.

(*g*) For forms of which writs, see APPENDIX.

(*h*) It is the intention of the editor to publish the Rules as an Appendix to this work. If before its completion new rules be framed superseding those promulgated under the old law the new rules shall be so published—otherwise the old rules which by this clause are preserved “until rescinded or altered.”

(*i*) The question arose in the case of *The Queen on the relation of Beatty v. O'Donoghue, et al.* 3 U. C. L. J., 75, whether “appointments” came within the clauses for the summary trial of contested elections, and it was held that they did not. This section supplies the defect which was then felt to exist in the law, and as regards the trial of contested elections places appointments and elections on the same footing.

MEETINGS OF COUNCIL, &c.

FIRST MEETING OF MEMBERS ELECT.

First meetings of Councils.

130. The members of every Municipal Council, (*j*) (except County Councils,) and the Trustees of every Police Village, shall hold their first meetings at noon on the third Monday of the same January in which they are elected, or on some day thereafter at noon; (*k*) and the members of every County Council shall hold their first meeting at noon, or some hour thereafter, on the fourth Tuesday of the same month, or on some day thereafter. (*l*)

Place in Counties.

131. The members of every County Council shall hold their first meeting at the County Hall, if there is one, or otherwise at the County Court House. (*m*)

ELECTION OF HEADS OF COUNCIL OTHER THAN OF CITIES AND TOWNS.

Election of Heads of other Councils than Cities and Towns.

132. The members elect of every council, except a city or town council (*n*) being at least a majority of the whole number of the council when full, (*o*) shall at their first meeting after the yearly elections, and after making the declarations of office and qualification when required to be taken, (*p*) organize themselves as a council by electing one of themselves to be the Warden or Reeve of the Corporation, and such person shall be the head of the council. (*q*)

(*j*) Cities and towns, (if any) separated from counties included.

(*k*) For tenure of office, &c., see secs. 86 and 123.

(*l*) A County Council being composed of Reeves, it is essential that the Township, Town, and Village Councils should be organized and Reeves be selected before the County Council can be constituted (sec. 132.) Hence the day appointed for the first meeting of a County Council is later in the month of January than that of any other Municipal Body.

(*m*) As to the jurisdiction and control of County Councils over Court Houses, see sec. 381 *et seq.*

(*n*) As to which, the heads or Mayors are elected, see secs. 101, 119.

(*o*) See note *x* to sec. 126.

(*p*) See note *s* to sec. 67.

(*q*) A Reeve is the name of the head of a township, town, or village; but Warden is the name of the head of a County Council, and he is elected by the Reeves, &c., composing the Council. At an election of Township Councillors the person who acted as Returning Officer for one of the five wards, was not the person appointed, but one of the same name. Afterwards when the five councillors elect assembled to choose a Reeve, the councillor from his ward was objected to as not being duly elected. The other four councillors then, without taking the oaths of office, proceeded to elect a Reeve. Held that the fifth

133.—At every such election (*r*) the Clerk of the Council shall preside, and if there is no Clerk, the members present shall select one of themselves to preside, and the person selected may vote as a member. (*s*)

Who to preside at.

134.—In case of an equality of votes on the election of the head of any County Council or Provisional County Council, then, of those present, the Reeve, or in his absence the Deputy Reeve, of the Municipality which has the largest number of names on its last revised assessment-roll, shall have a second and casting vote, (*t*) and in case of the like occurrence in any other Council, then, of those present, the member who has been assessed for the highest amount on such roll, shall have the like vote. (*u*)

Who to have the casting vote in the event of an equality of votes.

135.—The members of the Council of every town not withdrawn from the jurisdiction of the County Council, (*v*) and the council of every incorporated village shall, at its first meeting, elect from among its members a Reeve, (*w*) and in case any such town, or incorporated village or any township had the names of five hundred resident freeholders or householders on the last revised assessment-roll, (*x*) the members of the council of the town, village and township, shall also at its first meeting elect from among its members a Deputy Reeve. (*y*)

Election of Reeves and Deputy Reeves.

councillor should have been allowed to vote with the others, for it was not for them to determine the validity of his election. Held also that the oath of office should have been taken by the councillors before proceeding to elect the Reeve. (*In re Hawk and Ballard*, 3 U. C. C. P. 241.)

(*r*) *Such election, i. e.*, the one mentioned in the preceding section.

(*s*) If there is a Clerk, it is his duty to preside. If not, any member elected by the Council for the purpose. The election of a member for that purpose does not prevent him from voting like any other member.

(*t*) The right to a double vote when necessary is here well defined.

(*u*) It may be held that cities and towns, separated from counties, would come within the latter part of this section, should the right of the members to elect accrue. The section, however, does not mention "appointments." When it is the act of an organized council the appointment would be determined like any other question put to the vote. (sec. 147.)

(*v*) Under sec. 26.

(*w*) Township Reeves are provided for by secs. 66 & 132.

(*x*) See statute, 16 Vic. cap. 182, sec. 17.

(*y*) A Deputy Reeve, like a Reeve, is *ex officio* a Justice of the Peace. (Sec. 340.)

SUBSEQUENT MEETINGS.

Place of meeting of Council in Municipalities.

136.—The subsequent meetings of the County Council, and all the meetings of every other Council, shall be held at such place, either within or without the municipality, as the Council from time to time, by resolution on adjourning, to be entered on the minutes, or by by-law, appoints. (*z*)

Place of in Cities.

137.—The Council of the county in which any city (*a*) lies, may hold its sittings, keep its public offices, and transact all the business of the Council and of its officers and servants within such city, and may purchase and hold such real property therein as may be convenient for such purposes. (*b*)

Meetings to be open.

138.—Every Council shall hold its ordinary meetings openly, and no person shall be excluded except for improper conduct. (*c*)

Special may be close.

139.—In case there is no by-law of a Council fixing the place of meeting, any special meeting of the Council shall be held at the place where the then last meeting of the Council was held (*d*); and a special meeting may be open or closed, as, in the opinion of the Council, expressed by resolution in writing, the public interest requires. (*e*)

(*z*) The object of this section would seem to be to enable a County Council to sit in a city or town that has been separated from the county, when the proper county buildings are situate therein and are owned by the county. (See secs. 131 & 137.) But the language ("every other Council") is broad enough to admit of any Municipal Council holding sittings elsewhere than within the municipality, which probably was not really intended. The meetings are to be held "at such place," &c., as the Council from time to time, by resolution on adjourning, to be entered on the minutes, or by by-law, appoints. The difference between a resolution and a by-law is fully explained in note *v* to sec. 186. It is apprehended that an established place of meeting would be by by-law, and that in the absence of any such by-law the place may be determined for the next meeting by resolution on adjourning, at which time there would be no opportunity of passing a by-law. In the absence of any by-law, &c., the next meeting would be understood as appointed to be held at the place of the last meeting. (Sec. 139.) Strictly speaking, there ought to be either a by-law fixing a permanent place, or a resolution from time to time entered at each adjournment.

(*a*) *Qu.* "Or town separated from the county." (See sec. 26.)

(*b*) The power is not only to hold but to purchase real property in a city, for county purposes, even after the separation of the city from the county.

(*c*) The power to exclude for improper conduct is implied.

(*d*) *Qu.* If applicable to all Municipal Councils. (See note *z*, above.)

(*e*) The line drawn between an open and a closed meeting is here defined. The former is to be the rule, the latter the exception. (Sec. 139.) All ordinary meetings are to be open. (*Ib.*)

140.—A majority of the whole number of members required by law to constitute the Council, shall form a quorum. (*f*)

141.—When a Council consists of only five members, the concurrent votes of at least three shall be necessary to carry any resolution or other measure. (*g*)

In Councils of five, three must concur.

142.—Every Council may adjourn its meetings from time to time. (*h*)

Adjournments.

WHO TO PRESIDE IN COUNCIL.

143.—The head of every Council shall preside at the meetings of Council (*i*), and may at any time summon a special meeting thereof (*j*); and it shall be his duty to summon a special meeting whenever requested in writing by a majority of the Council. (*k*)

The Heads to preside in Council.

144.—In case of the death or absence of the head of a Town Council the Reeve (*l*), and in case of the absence or death of both of them, the Deputy Reeve, and in case of the death or absence of the head of a Village or Township Council, the Deputy Reeve, shall preside at the meetings of Council (*m*), and may at any time summon a special meeting thereof. (*n*)

When Reeve or Deputy Reeve to preside.

(*f*) The Court, upon an application to quash a by-law, on the ground that a quorum of the Council was not present at its passing, refused to interfere, conceiving it had not power to do so. (*Sutherland v. The Municipal Council of the Township of East Nissouri*, 10 U. C. Q. B. 626.)

(*g*) This applies to municipalities having five members only (see sec. 66), and the effect is, that although three constitutes a majority and forms a quorum, a majority of that majority cannot decide any question before the Council. When three members only are present, they must be unanimous. When four or five are present, it requires three at least to make a majority.

(*h*) After the first meeting (sec. 130), there are no periods of meeting fixed by statute: the matter is left to the discretion of each Council.

(*i*) *i. e.*, Warden, Mayor, or Reeve, as the case may be. (See sec. 65.)

(*j*) A special meeting may, under certain circumstances, be close and private. (Sec. 139.)

(*k*) A bare majority is all that is here meant or required, but it must be a majority of the whole number of the Council.

(*l*) *Town Council*, *i. e.*, of a town not separated from the county in which situate (see secs. 26 & 66); for in a town not so separated the Mayor is head, then the Reeve, and then the Deputy Reeve.

(*m*) In a township or village the Reeve is head, and then the Deputy Reeve.

(*n*) The latter part of this section belongs to the whole section, that is, any acting head authorised by the section may, among other things, at any time summon a special meeting of the Council.

Absence of
Head provid-
ed for.

145.—In the absence of the head of the Council, and, in the case of a town, village or township, in the absence also of the Reeve if there be one, and also of the Deputy Reeve if there be one, by leave of the Council or from illness (*o*), the Council may, from among the members thereof eligible to be elected head, appoint a presiding officer, who, during such absence, shall have all the powers of the head of the Council. (*p*)

Casual
absence pro-
vided for.

146.—If the person who ought to preside at any meeting does not attend within a reasonable time after the hour appointed (*q*), the members present may appoint a chairman from amongst themselves, and such chairman shall have the same authority in presiding at the meeting as the absent person would have had if present. (*r*)

Head to vote.

*Presumitur
pro negante,
in case of
ties.*

147.—The head of the Council, or the presiding officer or chairman of any meeting of any Council (*s*), may vote with the other members on all questions (*t*); and any question on which there is an equality of votes, shall be deemed to be negated. (*u*)

RESIGNATIONS OF HEADS OF COUNCIL.

Resignation
of Heads
provided for.

148.—The head of a Council, or the Reeve of a town, or the Deputy Reeve of a town, village or township may at any time resign his office (*v*); and in such case, or in the case of

(*o*) Provision is here made for the absence of all persons *ex officio* entitled to preside.

(*p*) The word “eligible” applies to cities, in which aldermen are so eligible, but not councilmen. (Sec. 66.)

(*q*) Provision is made in the preceding section for “death,” or “absence,” and here for non-attendance “within a reasonable time after the hour appointed.”

(*r*) *Chairman*; that is, it is apprehended, a person eligible to be head or presiding officer of the Council. (See secs. 145 & 148.)

(*s*) The form of words used deserves attention. The head, &c., or the presiding officer, or chairman, &c., so as to embrace every possible state of circumstances under the preceding sections.

(*t*) “All questions,” &c.; no exception of any kind created.

(*u*) This is in accordance with the old Latin maxim, “*Omnia presumuntur pro negante.*”

(*v*) The right of a member of a Municipal Corporation to resign in the absence of express provision authorizing it, has been doubted. (See *The King v. Tidderley*, Sid. 14, Com. Dig. tit. “Franchise,” F. 30; *The King v. The Mayor of Ripon*, 1 Rayd. 563; *The King v. Lane*, 2 Rayd. 1304.) In 2 Roll. Abr. 456, it is said that an alderman, with the assent of the Corporation, may resign his office in the Corporation, and that the Corporation may accept the resignation as of right. The power of the head of a Corporation, under the sec-

a vacancy in any such office by death or otherwise (*w*), the Council or its remaining members shall, at a special meeting for the purpose, or at the first regular meeting after the vacancy occurs, elect from among themselves a qualified person to fill the office. (*x*)

Vacancies
how filled.

OF COUNCILLORS.

149.—Any member of a Council may, with the consent of the majority of the members thereof, to be entered on the minutes of the Council, resign his seat in the Council (*y*), and the vacancy shall be supplied as in the case of a natural death. (*z*)

Members
may resign.

OFFICERS OF CORPORATIONS.

THE CLERK, AND DUTIES OF.

150.—Every Council shall appoint a Clerk (*a*); and the Clerk shall duly record in a book, without note or comment (*b*), all resolutions, decisions and other proceedings of the Council, and, if required by any member present, shall record the name and vote of every member voting on any matter submitted, and shall keep the books, records and accounts of the Council; and shall preserve and file all accounts acted upon by the Council, and also the originals or certified copies of all by-laws, and of all minutes of the proceedings of the Council; all

The Clerk,
and his
duties.

tion here annotated, to resign, is given with or without the assent of the Corporation. No ordinary member can resign without the assent of the majority of the members. (Sec. 149.) It is to be observed that there is no *mode* of resignation prescribed by the statute. It may therefore be proper for Municipal Councils, by by-law, to regulate the steps to be taken in such a proceeding.

(*w*) *Or otherwise.* (See note *i* to sec. 122.)

(*x*) The expression used is "*elect.*" The act being after the organization of the Council, the head, &c., of the Council would of course preside and take the votes. In the event of an equality of votes, there would, it is presumed, be in effect a negative, under sec. 147. If the section embraces Mayors, as well as other heads of Council, a conflict arises between it and sec. 122, pointed out in the notes to the latter section.

(*y*) See note *v* to sec. 148.

(*z*) *i. e.*, by public election. (See sec. 122.)

(*a*) It appears to be imperative on the Council to appoint a Clerk. Convenience, if not duty, however, will at all times render one necessary.

(*b*) The Clerk being an executive officer of the Council, it is his duty to make all entries as directed. He is not at liberty, without the previous sanction of the Council, to exercise any discretion of his own. His record of proceedings is to be "without note or comment."

which he shall so keep in his office, or in the place appointed by by-law of the Council. (c)

Minutes, &c.,
to be open to
inspection.

Copies to be
furnished,
and charges
therefor, &c.

151.—Any person may inspect any of the particulars aforesaid at all seasonable times (*d*); and the Clerk shall within a reasonable time furnish copies thereof to any applicant at the rate of six pence per hundred words, or at such lower rate as the Council appoints (*e*); and shall, on payment of his fee therefor, furnish within a reasonable time to any elector of the municipality, or to any other person interested in any by-law, order, or resolution, or to his attorney, a copy of such by-law, order, or resolution, certified under his hand and under the corporate seal. (*f*)

Clerk to
transmit a
yearly re-
turn of rate-
payers to the
Receiver
General.

152.—The Clerk of every city, town, incorporated village and township, shall, on or before the first day of December in each year, transmit to the Receiver-General a true return of the number of resident rate-payers appearing on the revised assessment roll of his municipality for the year (*g*), and shall accompany such return with an affidavit, made before a Justice of the Peace, verifying the same (*h*), in the following form:

“I, A. B. Clerk of the Municipality of the city, town, township or village (as the case may be), make oath and say, that the above, or the within written, or the annexed return,

(c) The duties of the Clerk, here enumerated, are the following:

1. To record all resolutions, decisions, and other proceedings of the Council.
2. If required by any member present, to record the name and vote of every member voting.
3. To keep the books, records, and accounts of the Council.
4. To preserve and file all accounts acted upon by the Council.
5. To keep the original or certified copies of all by-laws and of all minutes and other proceedings of the Council.
6. All which he is to keep in his office, or in the place appointed by by-law of the Council.

Other duties are imposed by succeeding sections of this Act.

(*d*) See last note.

(*e*) Upon tender of the remuneration specified, it is made the duty of the Clerk to furnish the copies required, a duty which it is conceived might, in the event of refusal, be enforced by mandamus.

(*f*) See note *c* to sec. 194.

(*g*) The Statute 19 Vic. cap. 16, required annual returns of this kind to be made to the Receiver General, with a view to the appropriation of moneys arising from the clergy reserves.

(*h*) It is made the positive and distinct duty of the Clerk on or before the day mentioned, not only to transmit the return, but to accompany it with the affidavit, of which a form is given. A penalty for neglect of duty is imposed by next section. (Sec. 153.)

contains a true statement of the number of resident rate-payers appearing on the assessment roll of the said city, town, township or village, for the year one thousand eight hundred and fifty-

“(Signed) A. B.

“Sworn before me,” &c.

153.—And in case of default in any year so to transmit *(i)* the Clerk shall be liable to a penalty of twenty dollars, to be paid to the Receiver General for the use of the Province, to be recovered by summary proceedings in the manner provided for the recovery of penalties for infringing By-laws under this Act. *(j)*

Penalty for default.

154.—The Clerk of every township, village, and town *(k)* shall, in each year, within one week after the first day of January, *(l)* make a return to the Clerk of the County in which the Municipality is situate, of the following particulars respecting his Municipality for the year then last past, *(m)* namely :

To make a yearly return to the County Clerk.

1. Number of persons assessed.

Heads of columns in Assessments-Rolls, to be varied according to the form of the Assessment-rolls required by law.

2. Number of acres assessed.
3. Total of rentals of real property.
4. Total of yearly value other than rentals of real property.
5. Total actual value of real property.
6. Total of taxable incomes.
7. Total value of personal property.
8. Total yearly value of personal property.
9. Total amount of assessed value of real and personal property.

10. Total amount of taxes imposed by By-laws of the Municipality.

11. Total amount of taxes imposed by by-laws of the County Council.

(i) See note *h* to sec. 152.

(j) See sec. 203 *et seq.*

(k) So the Clerk of every *city* (sec. 156.) but the return of the City Clerk, instead of being made to the County Council, is to be made to the Provincial Secretary.

(l) As to computation of time, see note *r* to sec. 98.

(m) The statute 16 Vic. cap. 163, required statistical returns of this kind to be made to the government. For neglect or duty a penalty is imposed by sec. 157 of the Act under consideration. The township in the same event is also liable to punishment.

12. Total amount of taxes imposed by By-laws of any Provisional County Council.
13. Total amount of Lunatic Asylum or other Provincial tax.
14. Total amount of all taxes as aforesaid. [mm]
15. Total amount of income collected or to be collected from assessed taxes for the use of the Municipality.
16. Total amount of income from licenses.
17. Total amount of income from public works.
18. Total amount of income from shares in incorporated Companies.
19. Total amount of income from all other sources.
20. Total amount of income from all sources.
21. Total expenditure on account of roads and bridges.
22. Total expenditure on account of other public works and property.
23. Total expenditure on account of stock held in any incorporated Company.
24. Total expenditure on account of schools and education, exclusive of School Trustees rates.
25. Total expenditure on account of the support of the poor or charitable purposes.
26. Total expenditure on account of Debentures and interest thereon.
27. Total gross expenditure on account of Administration of Justice in all its branches.
28. Amount received from Government on account of Administration of Justice.
29. Total nett expend're on ac't of Administration of Justice.
30. Total expenditure on account of salaries, and the expenses of Municipal Government
31. Total expenditure on all other accounts.
32. Total expenditure of all kinds.
33. Total amount of liabilities secured by Debentures.
34. Total amount of liabilities unsecured.
35. Total liabilities of all kinds.
36. Total value of real property belonging to Municipality.
37. Total value of stock in incorporated Companies owned by Municipality.
38. Total amount of debts due to Municipality.
39. Total amount of arrears of taxes.
40. Balance in hands of Treasurer.
41. All other property owned by Municipality.
42. Total assets.

(mm) There is no longer any Provincial Lunatic tax (20 Vic. cap. 8), but there is a Provincial tax on tavern licenses (22 Vic. cap. 76, s. 14).

155.—The Clerk of every County shall, before the first day of February, in each year, (*n*) prepare and transmit to the Provincial Secretary a statement of the aforesaid particulars respecting all the Municipalities within his County, (*o*) entering each Municipality in a separate line, and the particulars required opposite to it, each in a separate column, together with the sum total of all the columns for the whole County, and shall also make at the same time a return of the same particulars respecting his County, as a separate Municipality. (*p*)

County Clerk to make a return to the Provincial Secretary.

156.—The Clerk of every City, shall, before the first day of February in each year, (*q*) make a return to the Provincial Secretary of the same particulars respecting his City. (*r*)

And also Clerks of Cities.

157.—The Treasurer of the County shall retain in his hands any moneys payable to any Municipality, if it is certified to him by the Clerk of the County that the Clerk of such Municipality has not made the returns hereinbefore required; and the Receiver-General shall retain in his hands any moneys payable to any Municipality if it is certified to him by the Provincial Secretary that the Clerk of such Municipality has not made the returns hereinbefore required; (*s*) and any person so required to make any return by a particular day who fails so to do, shall be liable to a penalty of not more than twenty dollars, to be paid to the Receiver-General for the use of the Province, to be recovered as last aforesaid. (*t*)

Moneys to be retained if returns not made.

158.—The Provincial Secretary shall, as soon as may be after the commencement of every session, lay before both Houses of the Legislature a copy of all returns hereinbefore required to be made. (*u*)

Provincial Secretary to lay the returns before Parliament.

(*n*) Thus the Clerk of the Council, if returns are duly made to him will have about three weeks to prepare *his* return.

(*o*) *i. e.* of all townships, villages and towns, from which, under the preceding section he has received returns.

(*p*) In addition to a return containing all the particulars furnished to him pursuant to sec. 154, it is to be specially noticed that he is required to make a return "of the same (similar) particulars respecting his County as a separate Municipality."

(*q*) A City being deemed for Municipal purposes a County, the Clerk of the City has the same time allowed him within which to make his return as the Clerk of the County. (Sec. 155.)

(*r*) Sec. 154.

(*s*) This and the next succeeding section (158) prescribe the duties of the officers therein mentioned. It is only necessary to discriminate between what is to be done by the Clerks of the different Municipalities, by the County Treasurers, and by the Provincial Secretary respectively.

(*t*) See sec. 153.

(*u*) See note *s*, above.

CHAMBERLAIN AND TREASURER.

Treasurer to
be appointed

To give
security.

To receive
and take
care of and
disburse
moneys, &c.

To make a
return
yearly to the
Provincial
Board of
Audit.

159.—Every City Council shall appoint (*o*) a Chamberlain, and every other Council shall appoint a Treasurer (*p*); and every Chamberlain and Treasurer, before entering upon the duties of his office, shall give such security as the Council directs, for the faithful performance of his duties, and especially for duly accounting for and paying over all moneys which may come into his hands. (*q*)

160.—Every Treasurer and Chamberlain respectively shall receive and safely keep all moneys belonging to the Corporation (*r*), and shall pay out the same to such persons and in such manner as the laws of the Province and the lawful by-laws or resolutions of the Council direct. (*s*)

161.—The Treasurer or Chamberlain of every municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund (*t*), shall, so long as any part of such sum, or of the interest thereon, remains unpaid by such Municipality, transmit to the Board of Audit, on or before the fifteenth day of January in every year, a return, certified on the oath of the Treasurer or Chamberlain before some Justice of the Peace, containing the amount of taxable property in the Municipality, according to the then last assessment roll or rolls, a true account of all the debts and liabilities of the Municipality for every purpose, for the then last year, and such further information and particulars with regard to the liabilities and resources of the Municipality.

(*o*) See note *a* to sec. 150.

(*p*) The offices of Chamberlain and Treasurer, and member of the Council, are incompatible. (*The Queen v. Smith*, 4 U.C.Q.B. 322 & s.162.) If by any disregard of the law, accidental or otherwise, a person has been placed in the office who cannot by law hold it, things must take their course—the illegality must be ascertained and pronounced upon in a proper proceeding, instituted to try the question. (*Id.*)

(*q*) The Chamberlain or Treasurer is, first, to give security; secondly, the security is to be given before he enters upon the duties of his office; and, thirdly, it is to be for the faithful performance of his duties, and especially for duly accounting for and paying over all moneys which may come into his hands.

(*r*) As it is the duty of the Clerk to keep all books and records (sec 150), so it is of the Treasurer, &c., to keep all moneys belonging to the Corporation. (Sec. 160.)

(*s*) This refers the Treasurer, &c., to the Provincial statutes—such as the Assessment Act and the School Acts—as well as to by-laws of the municipality that relate to the subject, though not expressly mentioned.

(*t*) See 16 Vic. caps. 22 & 123.

pality, as the Governor in Council may from time to time require (*u*), under a penalty, in case of neglect or refusal to transmit the return, account, information or particulars, of one hundred dollars, to be recovered with costs as a debt due to the Crown, according to the fifteenth section of the statute, eighteenth Victoria, chapter seventy-eight, to secure the more efficient Auditing of the Public Accounts. (*v*)

ASSESSORS AND COLLECTORS.

162.—The Council of every Municipality except a County (*w*) shall as soon as may be convenient after the general election (*x*), appoint as many Assessors and Collectors for the Municipality as the Assessment Laws from time to time authorize or require, and shall fill up any vacancy that occurs in the said offices as soon as may be convenient after the same occurs (*y*); but the Council shall not appoint as Assessor or Collector a member of the Council (*z*), or a person who has not the same property qualification as that required for a Councillor or Councilman of the Municipality. (*a*) The same person may, in a city, town, or township, be appointed Assessor or Collector for more than one ward. (*b*)

Assessors and Collectors, appointment and qualification of.

(*u*) It is, by 20 Vic. cap. 20, sec. 1, made the duty of the Treasurer of any Municipality in *arrears* for any sum of money borrowed under 16 Vic. cap. 22, to certify to the Provincial Secretary, within one month after the time when the sum of money is payable, the total value of the assessed property, and the rate in the pound in such Municipality, for the year preceding the default. (Sec. 1.)

(*v*) In any action for the recovery of such a penalty, it is sufficient to prove by any one witness or other evidence, that such return, &c., ought to have been transmitted by the defendant as alleged on the part of the Crown; and the onus of proving that the same was so transmitted is to rest upon the defendant. (Latter part of sec. 15 of 18 Vic. cap. 78.)

(*w*) County rates are levied through the instrumentality of the different municipalities within the County, and for this reason, county municipalities do not require either assessors or collectors of their own (see secs. 31 to 34, 39 and 49, 16 Vic. cap. 182, and secs. 165 and 221 of the act here annotated)

(*x*) See sec. 82 *et seq.*

(*y*) See Statute 16 Vic. cap. 182, secs. 15 *et seq.* and 39 *et seq.*

(*z*) A member of a Council to become eligible to be appointed assessor or collector would have to resign under sec. 148 or 149, before accepting the appointment.

(*a*) See sec. 70.

(*b*) See 16 Vic. cap. 182, secs. 15 *et seq.* and 39 *et seq.*

Assessors to designate freeholders and householders in their assessment rolls.

163.—The Assessors shall state in their assessment rolls whether the persons named therein are freeholders or householders, or both, and shall, in separate columns for this purpose, use the initial letter F and H to signify the same respectively. (c)

Householder defined.

164.—Every occupant of a separate portion of a house, such portion having a distinct communication with a public road or street by an outer door, shall be deemed a householder within this act. (d)

Collector of Provisional County.

165.—The Collectors of the several townships in a junior county of a Union of counties shall *ex officio* be Collectors in such townships for the Provisional Council, and the Collectors shall pay over to the Provisional Treasurer the money they collect under any by-law of the Provisional Council. (e)

Moneys, how to be disposed of.

166.—The money so collected shall be deemed the money of the Union, so far as necessary to make the Collectors and their sureties responsible to the Union therefor; and in case the Corporation of the Union receives the same, such Corporation shall immediately pay the amount to the Provisional Treasurer, retaining the expenses of collection. (f)

AUDITORS.

Auditors.

167.—Every Council shall, at the first meeting thereof in every year after being duly organized, appoint two Auditors, one of whom shall be such person as the head of the Council nominates (g); but no one who, at such time, or during the

(c) Great responsibilities rest upon Assessors. Their work is not only the basis of municipal but of parliamentary elections. It is from the assessment roll, as revised and finally passed, that the list of parliamentary voters is made. (22 Vic. cap. 82, sec. 4.)

(d) A party is not the less a householder, or the less an occupant, because he lets a portion of his house to lodgers. The retention of any portion of the house as his own dwelling, gives him the legal occupation of the whole. The occupation of a lodger is considered in law that of the landlord. (See Phillip's case, Alcock's Registration cases, 20; Diugenan's case, Ib. 114; see also Saunders' Law and Practice of Municipal Registration, 1.) No lodger, though occupying the principal part of the house, is ever rated; but the owner, how small soever the part reserved to himself, is in the eye of the law the occupier of the whole. (*The King v. Eyles*, Cald. S. C. 414.)

(e) As to debts of the Union, see sec. 46.

(f) See sec. 46 *et seq.*

(g) The Council is to appoint two Auditors annually, but one of them is to be a person nominated by the head of the Council. Hence it will be seen that a nomination, though not an appointment, is, under this section, in effect the same.

preceding year, is or was a member, or is or was Clerk or Treasurer of the Council (*h*), or who has or during such preceding year had, directly or indirectly, alone or in conjunction with any other person, a share or interest in any contract or employment with or on behalf of the Corporation (*i*), except as Auditor, shall be appointed an Auditor. (*j*)

Disqualifica-
tion for
office of.

168.—The Auditors shall examine and report upon all accounts affecting the Corporation, or relating to any matter under its control or within its jurisdiction, for the year ending on the thirty-first day of December preceding their appointment. (*k*)

Duties of.

169.—The Auditors shall prepare an abstract of the receipts, expenditures and liabilities of the Corporation, and also a detailed statement of the said particulars in such form as the Council directs, and report in duplicate on all the accounts audited by them, and shall file the same in the office of the Clerk of the Council within one month after their appointment (*l*); and thereafter any inhabitant or rate-payer of the municipality may inspect one of such duplicate reports at all seasonable hours, and may by himself or his agent at his own expense take a copy thereof or extracts therefrom. (*m*)

To prepare
abstract and
detailed
statement of
receipts and
expendi-
tures, &c.

(*h*) All persons who have been members of the Council, or held office under the Council, are not disqualified, but only such as held office "during the preceding year;" that is, the year preceding the appointment.

(*i*) As to being a contractor, or having an interest in a contract, see note *m* to sec. 73.

(*j*) This is to enable the same individual to be reappointed to the office of Auditor. As to the declaration to be taken by an Auditor before entering on the duties of his office, see sec. 178.

(*k*) The Auditors, when appointed, have a duty to perform, and that duty is to examine *and* report upon all accounts affecting the Corporation, or relating to any matter under its control or within its jurisdiction, &c. Further duties are prescribed by the next following section (169).

(*l*) The duties of Auditors, under this section, may be thus classed:

1. To prepare an abstract of the receipts, expenditures and liabilities of the Corporation.
2. To prepare a detailed statement of the said particulars, in such form as the Council may direct.
3. To report in duplicate on all accounts audited by them.
4. To file the reports in the office of the Clerk of the Council within one month after appointment.

(*m*) The right to inspect the auditors' reports is extended to "any inhabitant or rate-payer." The difference between an inhabitant and a rate-payer is, that "inhabitant" means a resident, whether a rate-payer or not, and that a "rate-payer" is a person who pays taxes,

The Council
to audit
finally, &c.

170.—The Council shall, upon the report of the Auditors, finally audit and allow the accounts of the Treasurer or Chamberlain and Collectors, and all accounts chargeable against the Corporation (*n*); and in case of charges not regulated by law, the Council shall allow what is reasonable. (*o*)

Clerk to pub-
lish abstracts
and state-
ments.

171.—The Clerk shall print and publish the Auditors' abstract, and shall also publish the detailed statement in such form as the Council directs. (*p*)

Audit of
moneys paid
by Treasurer.

172.—Every County Council shall have the regulation and auditing of all moneys to be paid out of funds in the hands of the County Treasurer. (*q*)

SALARIES AND CONTINUANCE IN OFFICE.

Salaries of
officers.

173.—In case the remuneration of any of the officers of the municipality has not been settled by act of the Legislature, the Council shall settle the same, and the Council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by by-law of the Council. (*r*)

whether a resident or not. (See *Rex v. Inhabitants of North Curry*, 4 B. & C. 961.) Mere colorable residence is insufficient to constitute a person an inhabitant. (*The King v. Sargent*, 5 T. R. 466; *The King v. The Duke of Richmond*, 6 T. R. 560; *Bruce v. Bruce*, 2 B. & P. 229, *n*; *The King v. Mitchell*, 10 East, 511; *Whithorn v. Thomas*, 7 M. & G. 1.)

(*n*) It is the duty of the Auditors, within one month after appointment, to file their report (sec. 170). It then becomes the duty of the Council to finally audit and allow the accounts of the Treasurer, &c., and all accounts chargeable against the Corporation. Some discretion is involved in this duty. It would even appear that the Council, in the performance of their duty, have power to overrule the Auditors (s. 172).

(*o*) That is, a *quantum meruit* or reasonable compensation for the services performed.

(*p*) The "abstract" is one thing, and the "detailed statement" another, each of which is described in sec. 169. The first is to be printed and published by the Clerk, the second is to be published under the direction of the Council.

(*q*) The power of the County Council is to regulate and audit all moneys to be paid, &c. The word "regulate" appears to refer to an order prior to payment, as does the word "audit" refer to an act done after payment. The Council have, under sec. 170, a general power to finally audit and allow all the accounts of the Treasurer, &c., and all accounts chargeable against the Corporation.

(*r*) Under a power to remunerate all "township officers," it was held that municipal councillors had no authority to remunerate themselves. (*In re Wright and the Municipal Council of the Township of Cornwall*, 9 U. C. Q. B. 442; *Daniels v. The Municipal Council of the*

174.—The Chamberlain or Treasurer may be paid a salary or percentage (*s*), and all officers appointed by a Council shall hold office until removed by the Council (*t*), and shall, in addition to the duties assigned to them in this act, perform all other duties required of them by any other statute, or by the by-laws of the Council having jurisdiction over such officers. (*u*)

Of Chamberlain or Treasurer.

OFFICIAL DECLARATIONS.

175.—Every person elected or appointed under this Act (*v*) to any office requiring a qualification of property in the incumbent (*w*) shall, before he takes the declaration of office, or enters on his duties, (*x*) make and subscribe a solemn declaration to the effect following: (*y*)

Declaration of qualification.

"I, A. B., do solemnly declare, that I am a natural-born (*or* naturalized) subject of her Majesty; that I am truly and *bona fide* seized or possessed to my own use and benefit, of such an estate, (*specifying the nature of such estate, and if*

Form of.

Township of Burford, 10 U. C. Q. B. 478.) And it was made a question whether the Warden of a county is to be deemed an officer, so as to be entitled to remuneration as such. (*The Queen v. The District Council of the Township of Gore*, 5 U. C. Q. B. 357.) But now all such questions are set at rest, for it is made lawful for the Council of every township and county to pass by-laws for paying the members of the Council for their attendance in Council. (Sec. 262.) Where a Municipal Council, in 1850, passed a vote assigning to the Clerk of the Peace a fixed salary for that year, "in lieu of all fees," held (the Jury Act, 13 & 14 Vic. cap. 55, having been subsequently passed), that this could not debar him from claiming the fees allowed by that statute for preparing the jury books for the following year. (*Pringle v. McDonald*, 10 U. C. Q. B. 254.)

(*s*) The appointment of this officer is authorized by sec. 159.

(*t*) That is, during the pleasure of the Council.

(*u*) Duties are in this act prescribed for such officers as Chamberlains, Treasurers, Collectors, Assessors and Auditors, but the Council are here empowered to impose additional duties on these and all other officers of the Council.

(*v*) As to the difference between an election and appointment, see note *x* to sec. 126.

(*w*) Assessors and Collectors for example (sec. 162).

(*x*) The election of a Reeve by Township Councillors is "a duty," within the meaning of this section, rendering it incumbent on the Councillors, before proceeding to the election, to take the necessary declaration. (*In re Hawk and Ballard*, 3 U. C. C. P. 241.)

(*y*) Declarations are in many parts of this act substituted for oaths (see note *a* to sec. 67); but it must not be forgotten that the wilful making of any false statement required or authorized by this act, is a misdemeanor punishable as wilful and corrupt perjury. (Sec. 401.)

land, designating the same by its local description, rents or otherwise,) as doth qualify me to act in the office of (naming the office) for (naming the place for which such person has been elected or appointed) according to the true intent and meaning of the Municipal Laws of Upper Canada."

Declaration
of office.

176.—Every Returning Officer and Returning Officer's Clerk, every Township, Village, Town and City Councillor, every Alderman, every Justice of the Peace for a Town, and every Clerk, Assessor, Collector, Constable and other officer appointed by a Council, shall also, before entering on the duties of his office, make and subscribe a solemn declaration to the effect following: (*z*)

Form of
declaration
of office.

"I, A. B., do solemnly promise and declare, that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*) to which I have been elected (*or appointed*) in this Township, (*or as the case may be,*) and that I have not received and will not receive any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office." (*a*)

Denial of
disqualify-
ing interest,
who to take.

177.—The solemn declaration to be made by every Mayor and Alderman, and by every Township, Village, Town and City Councillor, shall also state that he has not by himself or his partner an interest in any contract with or on behalf of the Corporation. (*b*)

Auditor's
declaration.

178.—The solemn declaration (*c*) to be made (*d*) by every Auditor (*e*) shall be as follows:

Form of oath.

"I, A. B., having been appointed to the office of Auditor for the Municipal Corporation of ———, do hereby promise and declare that I will faithfully perform the duties of such office according to the best of my judgment and ability; and

(*z*) See note *y* to sec. 175. The declaration made necessary by this section is to be taken in addition to the one required by sec. 175.

(*a*) This is a general declaration of office, and is intended to be administered, in addition to the officers specified, to *all* officers appointed by the Council.

(*b*) As to what is an interest in a contract with or on behalf of the corporation, see note *m* to sec. 73.

(*c*) See note *y* to sec. 175.

(*d*) To be made before he enters on the duties of his office. (See sec. 175 *et seq.*)

(*e*) As to the appointment of Auditors and qualifications necessary, see sec. 167.

I do solemnly declare, that I have not directly or indirectly any share or interest whatever in any contract or employment (*except that of Auditor, if re-appointed*) with, by or on behalf of such Municipal Corporation; during the year preceding my appointment, and that I have not any contract or employment (*except that of Auditor, if re-appointed*) for the present year."

179.—The Head and other Members of the Council, and the subordinate officers of every Municipality, shall make the declaration of office and qualification before some Court, Judge, Recorder, Police Magistrate, or other Justice of the Peace having jurisdiction in the Municipality for which such Head, members or officers have been elected or appointed, or before the Clerk of the Municipality. (*f*)

Heads and other members of the Council before whom to declare.

180.—The Court, Judge or other person before whom such declarations are made, shall give the necessary certificate of the same having been duly made and subscribed. (*g*)

Certificate of.

181.—The Head of any Council, any Alderman, Reeve or Deputy Reeve, any Justice of the Peace of a Town, and the Clerk of a Municipality, may, within the Municipality, administer any oath, affirmation or declaration under this Act, relating to the business of the place in which he holds office, except where otherwise specially provided, and except where he is the party required to take the oath or affirmation, or make the declaration. (*h*)

Head of Council and Reeves may administer oaths, &c.

182.—The deponent, affirmant or declarant shall subscribe every such oath, affirmation or declaration, (*i*) and the person administering it shall duly certify and preserve the same, and

Oath or declaration to be subscribed.

(*f*) This section enables the Heads of Councils, &c., to make the necessary declarations without the restrictions as to Court or Judge which formerly existed. In some respects this section has been already commented upon. (See note *c* to sec. 113.)

(*g*) The certificate is to be to the effect that the declaration has been made *and* subscribed—two things essentially different, but each necessary to complete the taking of the declaration.

(*h*) The authority of the officers named is not to administer *all* oaths, but only such as relate to the business of the place in which the person administering the oath holds office.

(*i*) A deponent is one who makes a lawful oath. An affirmant is one who by law is permitted to affirm when otherwise he would be required to make an oath. And a declarant is a person who, instead of making either an oath or affirmation, makes a solemn declaration, which, if false, is visited with punishment as much as either an oath or affirmation. (See note *y* to sec. 175.)

within eight days deposit the same in the office of the Clerk of the Municipality to the affairs of which it relates, (*j*) on pain of being deemed guilty of a misdemeanor. (*k*)

Penalty for refusing to accept office or take the oaths, &c.

183.—Every qualified person duly elected or appointed to be a Mayor, Alderman, Councilman, Reeve or Deputy Reeve, Councillor, Police Trustee, Assessor or Collector, of or in any Municipality, who refuses such office (*l*), or does not make the declarations of office and qualification within twenty days after knowing of his election or appointment (*m*), and every person authorized to administer any such declaration, who, upon reasonable demand, refuses to administer the same (*n*), shall, on conviction thereof before two or more Justices of the Peace, under and subject to the Summary Convictions Act of sixteenth Victoria, chapter one hundred and seventy-eight, forfeit not more than eighty dollars nor less than eight dollars, at the discretion of such Justices, to the use of the Municipality, together with the costs of prosecution. (*o*)

EMBEZZLEMENT OF BOOKS, MONEYS.

Embezzlements by Municipal Officers.

184.—All books, papers, accounts, documents, moneys and valuable securities, respectively, by any person or officer appointed or employed by or on behalf of any Council, kept or received by virtue of his office or employment, shall be the property of the Corporation (*p*); and in case any such person or officer refuses or fails to deliver up or pay over the same respectively to the Corporation, or to any person authorized by the Council to demand them, he shall be deemed guilty of a fraudulent embezzlement thereof (*q*), and may be prosecuted

(*j*) The duty of the person administering an oath, &c., of the kind authorised, is two-fold, *first*, to certify and preserve the same, and *secondly*, within eight days to deposit the same in the place mentioned.

(*k*) As to misdemeanors, see note *r* to sec. 55.

(*l*) This renders the acceptance of the offices mentioned obligatory, at the risk of the penalty which follows refusal.

(*m*) The gist of this is the *scienter* or *knowledge* of the appointment. As to the computation of the time, see note *r* to sec. 98.)

(*n*) The demand is to be reasonable, that is, to be made in a rational manner, and at seasonable hours.

(*o*) To be enforced, it is presumed, by warrant, in the manner directed by the 16 Vic. cap. 178. (See sec. 242, subsecs. 6, 7 & 8.

(*p*) So as to enable the Corporation to maintain civil actions for or in respect of them, or to prosecute criminally when the offence of embezzlement is committed.

(*q*) This is a most important provision. It is in the first place declared that all books, papers, accounts, documents, moneys, and valuable securities, by any person or officer appointed by or on behalf of the

and punished, in the same manner as a servant fraudulently embezzling any chattel, money or valuable security of his master (*r*); but nothing herein shall affect any remedy of the Corporation, or of any other person against the offender and his sureties, or any other party; nor shall the conviction of such offender be receivable in evidence in any suit, at law or in equity, against him. (*s*)

PROVISIONS APPLICABLE TO ALL COUNCILS.

185.—The following sections, numbered from 186 to 240, both inclusive, relate to all Municipalities, namely, 1, Townships; 2, Counties; 3, Provisional Corporations; 4, Cities; 5, Towns; and, 6, Incorporated Villages. (*t*)

Certain sections to apply to all Municipalities.

JURISDICTION OF COUNCILS.

186.—The jurisdiction of every Council shall be confined to the Municipality the Council represents, except where authority beyond the same is expressly given, (*u*) and the

Local Jurisdiction of Councils.

Council, &c., kept or received, are the property of the Corporation. In the next place it is declared that if any *such* person refuse or fail to deliver up or pay over *the same*, he shall be guilty of a *fraudulent embezzlement thereof*, &c. Embezzlement is a statutable stealing, and is an offence of a serious nature.

(*r*) For the punishment of embezzlements committed by clerks and servants, it is enacted that if any clerk or servant, &c., shall, by virtue of his employment, receive or take into his possession any chattel, money, or valuable security, for or in the name of or on account of his master, and shall fraudulently embezzle the same or any part thereof, every such offender shall be deemed to have feloniously taken the same from his master, although such chattel, money or security was not received into the possession of such master otherwise than by the actual possession of his clerk, servant, or other person so employed. (4 & 5 Vic. cap. 25, sec. 39; see also 18 Vic. cap. 92, secs. 16, 47; and the leading case of *The Queen v. Cummings*, in Appeal, 4 U. C. L. J. 182.) The punishment is imprisonment in the Provincial Penitentiary at hard labour for any term not exceeding fourteen nor less than seven years, or imprisonment in any other prison or place of confinement for any term not exceeding two years. (4 & 5 Vic. cap. 25, sec. 38.)

(*s*) The civil remedy is to be distinct from, and independent of, the criminal procedure.

(*t*) Police villages are neither enumerated here nor intended to be included under the operation of the sections from sec. 186 to sec. 240 inclusive. A police village is not a municipality, within the meaning of this Act. (Sec. 402, subsec. 1.)

(*u*) A Municipality, whether a County, City, Township, or Village, is a locality; and a Municipal Council is the governing body of that locality. Beyond the limits of the locality the Council has not in general any authority whatever. For this reason the section begins

powers of the Council shall be exercised by By-law when not otherwise authorized or provided for. (v)

by declaring that "the jurisdiction (or authority) of every Council shall be confined to the Municipality (or locality) the Council represents." Thus one Township Council has no power to impose any regulations on a township of which it is not the Council. So of every other Municipality. The proposition is so reasonable and so self-evident that little more is required to be said about it. Nor can a Municipal Council, in general, benefit another Municipality at the expense of its own; for instance, build a school house in a township of which it is not the representative. This too is an unmistakable proposition, but as between Townships and Counties not so clear as the preceding. For many purposes a Township is within the jurisdiction of the Council of the County in which it is situate, and is subject to be taxed for county purposes by the County Council; but the right of a Township Council to tax itself in aid of the county, is limited. It would seem that a Township Council has no right voluntarily to pass a by-law imposing a rate in aid of a county rate. (*Fletcher v. the Municipality of the Township of Euphrasia*, 13 U. C. Q. B. 129.) So the right of a Township Council to pass a by-law in aid of the cost of a school-house ordered by the County Council is doubtful. (*Kennedy v. the Municipal Council of Sandwich*, 9 U. C. Q. B. 326.) So a Township by-law was quashed as to so much of it as related to the raising of a sum of money to defray the demands of the County Council on the Township, as an equivalent to the Government school grant, &c., it not appearing on the face of the by-law that it was directed to the purpose of meeting a deficiency, nor even that there was any, if that would have authorized the by-law. (*Fletcher v. the Municipality of the Township of Euphrasia*, 13 U. C. Q. B. 129.)

(v) The jurisdiction of every Council is not only to be confined to the Municipality the Council represents, but is to be exercised, when not otherwise provided for, by *by-law*. When a corporation is duly erected, the law tacitly annexes to it the power of making by-laws or private statutes. This power is included in every act of incorporation; for, as is quaintly observed by Blackstone, "as natural reason is given to the natural body for governing it, so by-laws or statutes are a sort of political reason to govern the body politic." (1 Bl. Com. 476.) Though the power to make by-laws is unquestionably an incident of every corporation, it is rarely left to implication; but is usually, as in the present case, conferred by the express terms of the Act of Parliament. And where the act enables the corporation to make by-laws in certain cases and for certain purposes, its power of legislation is limited to the cases and objects specified—all others being excluded by implication. (Angel & Ames on Corporations, 323.) The legislation of a municipal body is at all events confined to the objects of its incorporation. (Ib.) And a by-law has the same force within its limits and with respect to the persons upon whom it lawfully operates, as an Act of Parliament has upon people at large. (*Hopkins v. Mayor of Swansea*, 4 M. & W. 640.) The Courts upon general principles recognize judicially what Municipal Councils are competent to do, and hold that it is not necessary for them to recite in a by-law all that is requisite to show that they have proceeded regularly in passing it. (*Grierson v. the Municipal Council of Ontario*,

187.—Every Council may make regulations (*w*) not specifically provided for by this Act, and not contrary to law, for governing the proceedings of the Council,—the conduct of

General
power to
make local
regulations;

9 U. C. Q. B. 623; *Fisher v. the Municipal Council of Vaughan*, 10 U. C. Q. B. 492.) It is a common belief that a municipal body can do by resolution whatever may be done by by-law. Nothing can be more erroneous or more tend to the insecurity of municipal government. The general principle known to the common law is that a corporation of the kind can only act through its seal, and that its rules and regulations, whether general or special, should also be embodied in by-laws under seal. (Sec. 188.) But among people generally, and among that class composing Municipal Councils particularly, there is a dislike of formality, and in consequence the too frequent abandonment of by-laws for mere orders or resolutions. Now the proceedings of a Municipal Council that may be lawfully had by order or resolution are comparatively few and unimportant. A by-law should not be dispensed with unless in a very clear case. In fact, whenever a Municipal Council is in doubt whether it can or cannot do a particular thing by order or resolution, it would be much safer and wiser, owing to the doubt, to use a by-law. Were this as a rule understood and followed, it would prevent much confusion in the administration of municipal affairs. Another common but erroneous belief is, that a Municipal Council can by order or resolution do that which, if done through a by-law, would be illegal. This it cannot do. No Municipal Council can do that informally which it has no power to do directly and formally. (*Daniels v. the Municipal Council of the Township of Burford*, 10 U. C. Q. B. 478.) A by-law, order or resolution, which revives an illegal by-law, is of course itself illegal. (*Canada Company v. the Municipal Council of the County of Oxford*, 9 U. C. Q. B. 567.) An order or resolution duly signed and sealed is virtually a by-law; but many orders and resolutions pass by mere vote, without being thus authenticated. The municipal rules of proceeding generally require more formal steps to be taken in passing a by-law than in adopting an order or resolution. The power to make by-laws necessarily supposes the power to enforce them by pecuniary penalties, competent and proportionable to the offence. It is impossible to lay down any rule as to what is a reasonable penalty, for this must be determined by the nature of the offence. (Angell & Ames on Corporations, 361.) Fifty dollars would appear to be the general maximum (sec. 242, subsec. 6). The penalty may be levied by distress, and, failing that, by imprisonment of the offender (*Ib.*). In construing a by-law, &c., the court will look at the whole of it, to ascertain its meaning, and construe one part with another, or other parts, so as if possible to give full effect to the whole. (*In re Cameron and the Municipality of East Nissouri*, 13 U. C. Q. B. 190.)

(*w*) *Regulations.*—It is not stated in what manner these regulations are to be made, whether by-law, order or resolution. It is certainly not stated that they are to be made by order or resolution. And it is elsewhere provided that the powers of a Municipal Council, “when not otherwise authorized or provided for,” shall be exercised by *by-law*. (Sec. 186.) Little doubt therefore exists in the mind of the editor, but that the regulations in this section mentioned must be in the form of by-laws. (See note *v* to sec. 186.)

To regulate
meetings
and proceed-
ings;

its members,—and the appointing or calling of special meetings of the Council; and generally, such other regulations as the good of the inhabitants of the Municipality requires; (x)

(x) Every Municipal Council is under this section empowered to make regulations for the following purposes:

1. For governing the proceedings of the Council.
2. For the conduct of its members.
3. For appointing special meetings of the Council.
4. For calling such meetings.
5. And generally such other regulations as the good of the inhabitants requires.

Provided there be no such regulations specifically given in this Act and provided the regulations be not contrary to law.

It is a principle applicable to every regulation of a Municipal Corporation, first, that it be not contrary to the municipal act or law authorizing the formation of the corporation, and, secondly, that it be not contrary to the general law of the land.

First—The regulations of a Municipal Council must not be inconsistent with the Municipal Acts, for these acts create it an artificial being, impart to it its power, designate its object, and prescribe its mode of operation. They are in short the constitution of the Corporation. Hence all laws in contravention of them are void. The true test of all by-laws, says Mr. Justice Wilmot, “is the intention of the Crown in granting the charter and the apparent good of the corporation.” (*The King v. Spencer*, 3 Burr. 1838.) So of a Municipal Council it may be said that the true test of a by-law is the intention of the Legislature in incorporating the Council, and the apparent good of the Municipality affected. Mr. Justice Yates, in the same case, said, “Corporations cannot make by-laws contrary to their constitution. If they do so, they act without authority.” (Ib.; but see “*The Case of Corporations*,” 4 Co. R. 77, 78.) As transcending the Municipal Acts, by-laws creating a new office, imposing an oath of office where none is required by the acts, giving a vote to a class of persons not entitled to vote by law, qualifying persons to be candidates not qualified by the acts, giving a casting vote to an officer not entitled to it by the acts, restricting or extending the right of admission or eligibility to office, altering the prescribed mode of election, or imposing new or additional tests or qualifications either on members or voters, would be void. (See Angell & Ames on Corporations, 344.)

Second.—The law of a country being as well a rule for the proceedings of corporations as for the conduct of individuals, all by-laws contrary to the common or statute law of the country are void. “All by-laws,” says Hobart, “must ever be subject to the general law of the realm, and subordinate to it.” (*Norris v. Staps*, Hob. 210.) For this reason, a by-law “impairing the obligation of contracts,” or taking “private property for public uses without just compensation,” would be void. (Angell & Ames on Corporations, 330.) But where a statute authorized the corporation of a city to make by-laws “regulating,” or if necessary “preventing,” the interment of the dead within the city, it was held that though that corporation had granted lands for the purpose of interment, and had covenanted that they should be quietly enjoyed for that purpose, yet that the corporation was not there-

and may repeal, alter and amend its By-laws, save as by this Act restricted. (y) To repeal or alter By-laws.

by estopped from passing a by-law forbidding such interment, under a penalty. (Ib.) This case was decided on the ground that the legislative power of the corporation over this subject was delegated to it *for the good of the city*, and that the by-law passed was to be regarded as if passed by the legislature; that no person is entitled to use his property so as to injure another, and that no covenant could give him power so to do, even though made with the corporation; since, as tending to control and embarrass the exercise of its important powers as a *local legislature*, the covenant, when it came in competition with them, must give way or was repealed. (Ib.) The legislative power of a corporation is not only restricted by the statute law, but by the general principles and policy of the common law. Indeed, whenever a by-law seeks to alter a well-settled and fundamental principle of the common law, or to establish a rule interfering with the rights or endangering the security of individuals or the public, a statute or other special authority emanating from the creating power must be shown to legalize it, either expressly or by implication. It is upon this principle that, though many by-laws passed by the ancient municipal corporations in England for the *regulation* of trade have been adjudged good, yet many were adjudged void as in *restraint* of trade and an oppression of the subject. (Angell & Ames on Corporations, 332.) In New York, where the trustees of a village corporation were empowered to make such prudential by-laws, rules and regulations as they from time to time should deem meet relative to "huckster shops in said village," provided they were not inconsistent with the laws of the State, or of the United States, it was held that a by-law passed by the trustees, that hucksterers should take and pay for a license from the trustees, under a penalty, especially where it did not expressly appear that prudence required such a by-law, was in restraint of trade and void, as contrary to the general principles and policy of the State. (Ib. 333.) There are however numerous municipal ordinances and by-laws affecting the property of the subject, such as ordinances requiring the owners of lots fronting on certain streets to fix curb stones and make a brick way in front of their lots, or assessing the owners of buildings for similar purposes, affecting and regulating certain occupations and modes of using and exhibiting certain animals, such as by-laws prohibiting unlicensed persons from removing house dirt and offal from the city, prohibiting farmers from occupying stands for the purpose of selling in certain streets constituted by by-law a part of the city market, prohibiting the keeping of bowling alleys for gain, prohibiting the driving or riding of horses on a trot or gallop in the streets of a city, or the public exhibition of stud horses in a city, or requiring coal, &c., to be weighed, which in the United States are held reasonable and valid, as no more than a proper exercise of that general legislative power usually vested in municipalities, for the due police and government of their crowded thoroughfares. (Ib. 334; see also sec. 254 of this act and the act *passim*.)

(y) It need hardly be mentioned that the same body as a municipal council, which has power to make has power to repeal by-laws; it being of the very nature of legislative powers that, by timely changes in the rule it prescribes, it should be enabled to meet the exigencies

BY-LAWS OF COUNCILS.

HOW AUTHENTICATED.

How By-laws
to be au-
thenticated.

188.—Every By-law shall be under the Seal of the Corporation, and shall be signed by the Head of the Corporation, or by the person presiding at the Meeting at which the By-law has been passed, and by the Clerk of the Corporation. (z)

Certified
copies to be
evidence.

189.—A copy of any By-law, (a) written or printed without erasure or interlineation, (b) and under the Seal of the Corporation, (c) and certified to be a true copy by the Clerk and by any Member of the Council, (d) shall be deemed au-

of the occasion. (Angell & Ames on Corporations, 327.) But the power does not extend to all by-laws. There are certain by-laws, such as those authorizing the issue of debentures, &c., upon the faith of which third persons act and change their circumstances, and from which the Municipality in general derives an immediate benefit—these being in the nature of securities, rather than ordinary regulations, cannot be repealed until the loan or debt arising thereout or dependent thereupon is satisfied. (Sec. 231.) Hence it is that in the section here annotated the power given is to repeal, alter or amend by-laws, is general, “save as is by this act restricted.” When, however, a part only of a sum of money provided for by a by-law has been raised, the Council may, under certain restrictions, repeal the by-law as to any part of the residue. (Sec. 230.)

(z) The formalities prescribed in this section are indispensable. The By-law must be—

1. Under the Seal of the Corporation.
2. Signed by the Head of the Corporation.
3. Or by the person who presided at the Meeting at which the By-law passed.
4. Signed by the Clerk of the Corporation.

No action can be sustained, as for a breach of duty, against the Head of a Municipal Corporation for not applying the seal to make a contract between the corporation and the plaintiff, founded upon a refusal, which, if there had been a previous contract, would have constituted a breach of it. There cannot be a remedy against the Head of the Corporation equivalent to a remedy on the contract against the Corporation itself, had the contract been duly made, so as to make a valid contract where there is none. (*Fair v. Moore*, 3 U. C. C. P. 484.)

(a) Not “order or resolution.”

(b) It is well to observe the requirement, that the copy, whether written or printed, is to be *without erasure or interlineation*.

(c) The seal of course must have been affixed by the proper authority, and the production of the copy, with an impression of it, is *prima facie* evidence that it was affixed by the proper authority. (Angell & Ames on Corporations, 193.) The contrary must be shown by the objecting party. (Ib.)

(d) The certificate of the copy being a true one is to be signed “by the Clerk and by any Member of the Council.”

thentic, and be received in evidence in any Court of Justice without proof of the Seal or Signatures, (e) unless it is specially pleaded or alleged that the Seal, or one or both of the Signatures, have been forged. (f)

OPPOSITION TO, BY RATE-PAYERS.

190.—In case any person (g) rated on the assessment roll of any municipality, or of any locality therein (h), objects to the passing of a by-law, the passing of which is to be preceded by the application of a certain number of the ratable inhabitants of such municipality or place (i), he shall, on petitioning the Council, be at liberty to attend, in person or by counsel or attorney, before the Council at the time at which the by-law is intended to be considered, or before a committee of the Council appointed to hear evidence thereon, and may produce evidence that the necessary notice of the application for the by-law was not given, or that any of the signatures to the application are not genuine, or were obtained upon incorrect statements, and that the proposed by-law is contrary to the wishes of the persons whose signatures were so obtained, and that the remaining signatures do not amount to the number nor represent the amount of property necessary to the passing of the by-law. (j)

Opposition
to By-laws
applied for
by rate-
payers.

Provision
for.

(e) On a motion to quash a by-law, order or resolution, it is only necessary to produce a copy, certified under the hand of the Clerk alone, and under the corporate seal, together with an affidavit of the party applying, that the copy was received from the Clerk. (Sec. 194.)

(f) It is for the party alleging the affirmative to give *prima facie* proof of the forgery, before the other party can be required to rebut it and support the deed: the onus is on the party pleading forgery.

(g) *Qu.* Does the word "person," as here used, embrace corporations? (See 12 Vic. cap. 10, sec. 5, subsec. 8.) The provision hereafter made, that the complainant shall be at liberty, on petitioning the Council, to attend in *person* or by counsel, would seem to indicate that it does not.

(h) Which any person may be, on his own application. (16 Vic. cap. 182, sec. 17.)

(i) The right to object does not extend to the passing of *all* by-laws, but only such as are "to be preceded by the application of a certain number of the ratable inhabitants of the municipality or place."

(j) The right to attend for the purpose mentioned exists only "on petitioning the Council." The person so attending may raise all or any of the following objections:

1. That the necessary notice of the application for the by-law was not given.
2. That any of the signatures to the application are not genuine.

When By-laws shall not pass.

191.—If the Council is satisfied, upon the evidence, that the application for the by-law did not contain the names of a sufficient number of persons whose names were obtained without fraud and in good faith, and who represent the requisite amount of property, and are desirous of having the by-law passed, or if the Council is satisfied that the notice required by law was not duly given, the Council shall not pass the by-law. (*k*)

PROCEEDINGS WHEN THE ASSENT OF ELECTORS IS REQUIRED.

If a By-law requires the assent of the electors.

192.—In case a By-law requires the assent of the Electors of a municipality before the final passing thereof, (*l*) the following proceedings shall be taking for ascertaining such assent, except in cases otherwise provided for: (*m*)

Time and place of voting shall be fixed by By-law.

1.—The Council shall by the By-law fix the day, hour and place for taking the votes of the electors thereon at every place in the Municipality at which the elections of the Members of the Council or Councils therein are held; (*n*) and shall also name a Returning Officer to take the votes at every such place, and such day shall not be less than three nor more than four weeks after the first publication of the proposed By-law as herein provided for: (*o*)

3. That some of the signatures were obtained upon incorrect statements.
4. That the proposed by-law is contrary to the wishes of the persons whose signatures were so obtained.
5. And that the remaining signatures do not amount to the number, nor represent the amount of property necessary to the passing of the law.

(*k*) The Council is not to pass the by-law if satisfied of one of two things—either that the application for the by-law does not contain the names of a sufficient number of persons, &c., or that the notice required by law was not duly given.

(*l*) By-laws for creating debts, &c., are here especially intended. (See sec. 222 *et seq.*)

(*m*) If the proceedings prescribed be not taken, or be not duly taken, the By-law may be held invalid.

(*n*) “*Are held*,” that is in each ward, when there are wards, &c.

(*o*) The By-law itself is, among other requirements—1. To fix the time and place for taking the votes of the electors, &c. 2. To name a Returning Officer to take the votes. The time must not of course be inconvenient or unseasonable, and the place must be “every place at which the elections of the members of the Councils, &c., are held.” If the Returning Officer named fail to attend, it is apprehended that the Electors may choose from among themselves a Returning Officer. (Sec. 94; sec. 192, subsec. 4.)

2.—The Council shall, for at least one month before the final passing of the proposed By-law, publish a copy thereof in some newspaper published weekly or oftener in the Municipality, or if there is no such newspaper, in some newspaper in the nearest place in which a newspaper is published, and also put up a copy of the By-law at four or more of the most public places in the Municipality; (*p*)

Proposed By-law to be published.

3.—Appended to each copy so published and posted, shall be a notice signed by the Clerk of the Council, stating that such copy is a true copy of a proposed By-law which will be taken into consideration by the Council after one month from the first publication in the newspaper, stating the date of the first publication, and naming the hour, day and place or places fixed for taking the votes of the Electors: (*q*)

Notice to be given.

4.—At such day and hour a Poll shall be taken and all proceedings thereat and for the purpose thereof shall be conducted in the same manner as nearly as may be, as at a Municipal Election; (*r*)

Poll.

5.—Every Returning Officer shall on the day after the closing of the Poll, return his Poll-Book verified to the Clerk of the Local Municipality in which the Poll was taken, (*s*) and in case of a By-law of a County Council, the Clerk of the Lo-

Verified poll-book to be returned.

(*p*) The by-law is to be published in the manner directed, and to be so published "for at least one month," which means "one calendar month." (12 Vic. cap. 10, sec. 5, subsec. 11.) The manner of publication is to be the insertion of a copy of the By-law in some newspaper published weekly or oftener in the Municipality, or, if there is no such newspaper, in some newspaper in the nearest place in which a newspaper is published, and by putting up a copy of the By-law at four or more of the most public places in the Municipality. It is not clear whether the latter is to be done as well where there is a newspaper in the Municipality as where there is not. To prevent mistake, it had better be done in either case.

(*q*) The publication of the notice is quite as necessary as that of the By-law itself. The notice may be in this form:—Take notice that the above is a true copy of a proposed By-law, which will be taken into consideration by the Council of this Municipality. after one month from the first publication in the (*naming the newspaper*), the date of which first publication was (*stating the day of the week, month and year*), and that the votes of the Electors of the said Municipality will be taken thereon at (*naming the place or places*) on (*naming the day, &c.*) at (*naming the hour*).

C. D., Clerk.

(*r*) See sec. 97 *et seq.*, and notes thereto.

(*s*) *Verified, &c.* It is presumed, by a solemn declaration thereto annexed, that the poll-book contains a true statement of the poll. (See sec. 98.)

cal Municipalities shall forthwith return to the Clerk of the County Council the Poll-Book so delivered to him : (t)

Clerk to sum up and declare result.

6.—The Clerk of the Council which proposed the By-law shall add up the number of votes for and against the same, and shall certify to the Council under his hand whether the majority have approved or disapproved of the by-law ; (u) and shall keep the same with the Poll-Book among the Records of his Office. (v)

WHEN REQUIRING THE ASSENT OF THE GOVERNOR IN COUNCIL.

When the assent of the Governor is required to By-laws.

193.—The facts required by this Act to be recited in any By-law which requires the approval of the Governor in Council, shall, before receiving such approval, be verified, by solemn declaration, by the Head of the Council, and by the Chamberlain or Treasurer and Clerk thereof, and by such other persons and on such other evidence as to the Governor in Council satisfactorily proves the facts so recited ; (w) or in case of the death or absence of any such Municipal officer, upon the declaration of any other Member of the Council whose declaration the Governor in Council will accept. (x)

WHEN AND HOW QUASHED.

By-law, how to proceed in order to quash.

194.—In case a resident of a Municipality, or any other person interested (y) in a Bylaw, Order or Resolution of the

(t) Verified, it is apprehended, in the same manner as in last note mentioned. (See the Municipal Loan Fund Act, 16 Vic. cap. 22, sec. 2, subsec. 9.)

(u) It is made the duty of the Clerk of the Council to add up the number of votes, &c., and to certify, &c., but no time is limited for the performance of the duty. It must be done before the day appointed by the Council for taking the By-law into consideration.

(v) See sec. 150 *et seq.*, as to the duties of Clerks of Councils.

(w) This section applies only to By-laws requiring "the approval of the Governor in Council." To procure the approval, it is made necessary that—

1. The By-law be verified by solemn declaration.

2. The declaration to be made by the Head of the Council,
" " " " the Chamberlain or Treasurer,
" " " " the Clerk of the Council.

3. And by such other persons and on such other evidence as to the Governor in Council satisfactorily proves the facts recited.

(x) Will accept, i. e. may accept or deem satisfactory.

(y) The application may be made by "a resident, &c.," or "any other person interested, &c." As to what constitutes residence, see note r to sec. 75. Where applicant, who moved against a by-law of the United Counties of Peterborough and Victoria, swore that during all the year 1850, he had been and was at the time of the

Council thereof, (z) applies to either of the Superior Courts of Common Law (a), and produces to the Court a copy of the by-law, order or resolution (b), certified under the hand of the Clerk and under the corporate seal (c), and shews, by affidavit (d),

separation a resident of and within the limits and boundaries of the Town of Peterborough, a Corporation within the said County of Peterborough, it was held that applicant was sufficiently described as a resident, so as to be entitled to make the application. (*In re Conger and Peterborough Municipal Council*, 8 U.C.Q.B. 349.) Where a freeholder of a Township, though not a resident, applied to quash a By-law; and it was objected, that being a non-resident he could not do so; it was held that as a freeholder of the township he had an interest in all the By-laws passed by the Township Council, sufficient to enable him to move to quash any of its By-laws. (*In re De la Haye and the Municipality of the Gore of Toronto*, 2 U.C.C.P. 317.)

(z) Before this Act, the Courts had no express authority on summary application to quash "orders or resolutions." The power was restricted to by-laws. (*Daniels v. the Municipal Council of the Township of Burford*, 10 U.C.Q.B. 478; *In re Cæsar and the Municipality of the Township of Cartwright*, 12 U.C.Q.B. 341.)

(a) It has been held that the Practice Court is not authorized to entertain such an application. (*In re Sams and the City of Toronto*, 9 U.C.Q.B. 181.)

(b) Applicant must produce to the Court a copy of the by-law, order or resolution, that is of an existing by-law, &c. If before application the by-law, &c., has been repealed, of course no application to quash it is requisite. (*In re McGill and the Municipal Council of the County of Peterborough*, 9 U.C.Q.B. 562.)

(c) Where the Seal of the Corporation, though not mentioned in the Clerk's certificate, was on the same page with the certificate, immediately above it and opposite to the signature of the Clerk, the old law was held to be sufficiently complied with. (*Baker v. the Municipal Council of Paris*, 10 U.C.Q.B. 621.) The Court will discharge a rule to quash a by-law, &c., moved on a copy of the by-law, &c., verified in a manner different from that prescribed by this statute, unless the reason for the variances are clearly and satisfactorily explained. (*Buchart v. the Municipality of the United Townships of Brant and Carrick*, 6 U.C.C.P. 130.) As to compelling the Clerk to give a copy of the by-law, &c., certified as here directed, see *In re Township Clerk of Euphrasia*, 12 U.C.Q.B. 622.

(d) The affidavit ought to be intitled of the Court in which the motion is made (*Fraser v. the Municipal Council of the United Counties of Stormont, Dundas and Glengarry*, 10 U.C.Q.B. 286); but if it appears from the jurat to have been sworn before a Commissioner of that Court, the objection will not avail. (Ib.) If, however, the Commissioner merely describes himself as "a Commissioner, &c." without stating of what Court, the affidavit must be intitled. (*In re Hiron et al and the Municipal Council of Amherstburgh*, 11 U.C.Q.B. 458.) It need not be intitled "The Queen v. the Municipal Council of, &c." but may be "In the matter of W. S. C. and the Municipal Council of, &c." (*In re Conger and Peterborough Municipal Council*, 8 U.C.Q.B. 349.)

that the same was received from the Clerk (*e*), and that the applicant is resident or interested as aforesaid (*f*), the Court, after at least eight days' service (*g*) on the Corporation of a rule to shew cause in this behalf (*h*), may quash the by-law, order or resolution in whole or in part (*i*) for illegality (*j*),

(*e*) It does not appear to be necessary that the copy produced should be sworn to have been received by the deponent himself from the Clerk. Where the deponent swore that the copy produced was received by one T. from the Clerk of the Council, and by T. was delivered to deponent, the affidavit was held sufficient. (*Fisher v. the Municipal Council of Vaughan*, 10 U. C. Q. B. 492.) The statute does not require that the affidavit should refer to the copy of the By-law, as being annexed, or that it should be in fact annexed, but only that the copy produced is the copy received from the Clerk. (*Bessey v. the Municipal Council of Grantham*, 11 U. C. Q. B. 156.)

(*f*) Where the affidavit stated deponent to be a ratepayer and a resident householder, it was held unnecessary to give any further description of him. (*Baker v. the Municipal Council of Paris*, 10 U. C. Q. B. 621.)

(*g*) The meaning is that the corporation shall have eight days at least to answer the rule, so that a corporation served with a rule on the first Saturday of term was held not obliged to answer on the following Saturday. (*In re Sams and the City of Toronto*, 9 U. C. Q. B. 181.) Where the rule nisi was obtained near the end of term, and made returnable eight days after service, and defendants appeared during the following term and objected that the rule should have been to show cause on a day certain, held that the objection, even if good, was waived by appearance. (*Perry v. the Town Council of Whitby*, 13 U. C. Q. B. 564.)

(*h*) The service is to be "on the Corporation," and therefore where the motion was to quash a by-law for taking stock in a railway company, on the return of the rule, though the Corporation did not show cause, the Court declined to hear counsel for the railway company. (*In re Billings and the Municipal Council of the Township of Gloucester*, 10 U. C. Q. B. 273.) It is presumed that the service may be effected by leaving the copy with the Head of the Corporation, or with the Municipal Clerk. (See C. L. P. A. 1856, sec. 33.)

(*i*) It is not said that the Court shall quash, but that it may quash the By-law, &c., in whole or in part. The duty is not imperative. (*Hodgson v. the Municipal Council of York and Peel and the Municipal Council of Ontario*, 13 U. C. Q. B. 268.)

(*j*) *For illegality.*—The power of the Courts to deal summarily with by-laws, orders and resolutions of Municipal Councils, by quashing them on motion, depends wholly on this statute (*Sutherland v. the Municipal Council of East Nissouri*, 10 U. C. Q. B. 626); and that power seems to be restricted to some illegality apparent on the face of the by-law, &c. (*In re Hill and the Municipal Council of the Township of Walsingham*, 9 U. C. Q. B. 310; *Grierson v. the Municipality of Ontario*, 9 U. C. Q. B. 623); excepting perhaps where the by-law, order or resolution, is shown to have been passed under circumstances which by the express terms of the statute make it illegal. (*In re Laf-*

and according to the result of the application, award costs for or against the Corporation. (*k*)

WHEN CONFIRMED BY PROMULGATION.

195.—In case a By-law by which a rate is imposed has been specially promulgated in the manner hereinafter specified, (*l*) no application to quash the By-law shall be entertained after six calendar months have elapsed since the promulgation. (*m*)

Time after which By-law cannot be quashed, if properly promulgated.

196.—Every special promulgation of a By-law, within the meaning of this Act, (*n*) shall consist in the publication, through the public press, of a true copy of the By-law, and of the signature attesting its authenticity, (*o*) with a notice appended thereto of the time limited by Law for applications to the Courts to quash the same or any part thereof. (*p*)

What shall be such promulgation.

ferty v. the Municipal Council of Wentworth and Halton, 8 U. C. Q. B. 232.) Of course a by-law substantially illegal can afford no protection for what has been done under it, and so incidentally its validity may be decided upon at common law by Common Law Courts. (*Sutherland v. the Municipal Council of East Nissouri*, 10 U. C. Q. B. 626.)

(*k*) The words of the old law were, "and if it shall appear to such Court that such By-law is legal, in whole or in the part complained of, to award costs in favor of such corporation, or otherwise against such corporation" (14 & 15 Vic. cap. 109, schd. No. 21); words which were held not to be retrospective (*Brown v. the Municipal Council of the County of York*, 9 U. C. Q. B. 453), and are in meaning much the same as the words of this section, ("according to the result, award costs for or against the Corporation.") Where a Municipal Corporation, on being served with a rule nisi, repealed the by-law complained of, the Court notwithstanding obliged them to pay the costs of the application. (*In re Coyne and the Municipal Council of Dunwich*, 9 U. C. Q. B. 309.)

(*l*) See secs. 196, 197 & 198.

(*m*) The inconvenience of quashing a by-law imposing a rate, after it has been acted upon for months, is generally more than equal to the inconvenience of allowing a by-law, though technically defective, to exist. The effect of this section will be important, in curing technical defects in by-laws imposing rates.

(*n*) *A by-law.* Though the following section is expressly restricted to "a by-law by which a rate is imposed," this section appears to extend as well to other by-laws. Of course the publication will not legalize a by-law illegal and void on the face of it; but it would seem that all formal or technical objections (if there is jurisdiction) are cured, and all collateral objections precluded, after the expiration of the time limited for applications to the Court to quash the same.

(*o*) The publication is to be in each public newspaper, published weekly or oftener, within the municipality, &c., and to be continued in at least three consecutive numbers of the paper. (Sec. 197.)

(*p*) See sec. 198, as to form thereof.

And if the
By-laws im-
poses any
rate.

197.—In case of a By-law by which a Rate is imposed (*q*) the promulgation shall be either by such publication of a copy of the By-law with such notice as aforesaid, or in lieu thereof by such publication of a notice setting forth the amount of the rate and giving the substance only of the other parts of the By-law, with a similar notice of the time so limited for applications to quash as aforesaid, (*r*) and the publication referred to in the preceding two sections, shall be in each public newspaper published weekly or oftener within the Municipality; (*s*) or if there be no such newspaper, then in at least two public newspapers published weekly or oftener nearest to the Municipality, and the publication shall for the purpose aforesaid be continued in at least three consecutive numbers of the paper. (*t*)

Notice to be
given.

198.—The notice to be appended to every copy of a By-law for the purpose aforesaid, shall be to the effect following: (*u*)

Form of such
notice.

“NOTICE.—The above is a true copy of a By-law passed by the Municipal Council of the Township of A, in the County of B, one of the United Counties of B, C and D, (*or as the case may be*) on the — day of —, 185 , and (*where the approval of the Governor in Council is by law required to give effect to such By-law*) approved by His Excellency the Governor General in Council, on the — day of — 185 ; and all persons are hereby required to take notice, that any one desirous of applying to have such By-law or any part thereof quashed, must make his application for that purpose to one of Her Majesty’s Superior Courts of Common Law at Toronto, within six Calendar Months at the farthest after the special promulgation thereof by the publication of this notice in three consecutive numbers of the following newspapers, viz: (*here name the newspapers in which the publication is to be made*), or he will be too late to be heard in that behalf.

“G. H., Township Clerk.”

(*q*) See note *n* to sec. 196.

(*r*) Two modes of publication are pointed out; either may be adopted. (See secs. 198 & 199 as to *forms* of notice.)

(*s*) *Municipality*. See sec. 402, subsec. 1.

(*t*) It would seem that the six months allowed for an application to quash a by-law are to be computed from the publication of the first number of the newspaper in which the same is made. (See sec. 198.)

(*u*) Where a statute expressly provides that a thing is to be done in a given form, the statute ought to be closely followed. (See *Warren v. Love*, 7 Dowl. P. C. 602; *Codrington v. Curlewis*, 9 Dowl. P. C. 968.) The form here given is “in effect” to be followed.

199.—The notice setting forth the amount of the rate, and giving the substance only of the other parts of the By-law, for the purpose aforesaid, shall be to the effect following : (v)

Notice setting forth the rate.

“Township A, in the County of B, one of the United Counties of B, C and D, in Upper Canada to wit :

Form of such notice.

Notice is hereby given, that a By-law, intituled, (*set out the title,*) and numbered (*give the number by which the By-law is designated,*) was on the — day of —, 185 , passed by the Municipal Council of the Township of A, in the County of B, one of the United Counties of B, C, and D, in Upper Canada, for the purpose of (*here set out in substance the object of the By-law, as* “raising the necessary funds to meet the general public expenses of the Township of — for the year 185 ,” or “for the purpose of raising and contracting for a loan of — Pounds, for making and macadamizing a Road from — to —” (*or otherwise, as the case may be*) and (*where the approval of the Governor in Council is by law required to give effect to such By-law,*) approved by His Excellency the Governor-General in Council, on the — day of —, 185 ;) and all persons are hereby required to take notice, that any one desirous of applying to have such By-law or any part thereof quashed, must make his application for that purpose to one of Her Majesty’s Superior Courts of Common Law at Toronto, within six calendar Months, at the farthest, after the special promulgation thereof, by the publication of this notice in three consecutive numbers of the following newspapers, viz. : (*here name the newspapers, in which the publication is to be made,*) or he will be too late to be heard in in that behalf.

“G. H., Township Clerk.”

200.—In case no application to quash any By-law so specially promulgated is made within the time limited for that purpose, (*w*) the By-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, so far as the same ordains, prescribes or directs any thing within the proper competence of the Council to ordain, prescribe or direct, shall, notwithstanding any want of substance or form, either in the By-law itself, or in the time or manner of passing the same, be a valid By-law. (*x*)

If not moved against, within the time limited, to be valid.

(v) See note *u* to sec. 198.

(w) This and sec. 196 seem to contemplate by-laws for *any* purpose, while secs. 195 and 197 and the *forms* of notice seem to apply only to by-laws imposing rates. These sections are taken from the repealed statute 14 & 15 Vic. cap. 109, Sch. A. 21, provisoes Nos. 1, 2, 3 and 4, and are in substance the same.

(x) The effect of neglect to make an application within the time

IF QUASHED, THE CORPORATION ONLY TO BE LIABLE.

Liability of Municipality for acts done under a By-law afterwards quashed.

201.—In case a By-law, Order or Resolution is illegal in whole or in part, (z) and in case any thing has been done under it which, by reason of such illegality, gives any person a right of action, (a) no such action shall be brought until one calendar month has elapsed after the By-law, Order or Resolution has been quashed or repealed, (b) nor until one calendar month's notice in writing of the intention to bring such action has been given to the Corporation; (c) and every such action shall be brought against the Corporation alone, and not against any person acting under the By-law, Order or Resolution. (d)

prescribed is a cure of any want of substance or form, either in the by-law, &c., itself or in the time or manner of passing the same, provided whatever is ordained or directed by the by-law, &c., is within the proper competence of the Council.

(z) See sec. 194 and notes thereto.

(a) It would appear that if a by-law, &c., is not void on the face of it, without being quashed, all proceedings duly had under it while in force may be justified under it. (*Barclay v. the Municipality of the Township of Darlington*, 5 U. C. C. P. 432.)

(b) *Quashed or repealed.*—This implies that a by-law, at any time before being quashed, may be repealed. (See *In re McGill and the Municipal Council of the County of Peterborough*, 9 U. C. Q. B. 562; and *Barclay v. the Municipality of the Township of Darlington*, 5 U. C. C. P. 432.)

(c) This portion of the section is new, and is apparently introduced in order to settle a conflict of opinion between the Courts of Queen's Bench and Common Pleas as to the necessity of notice before action. (*Brown v. the Municipal Council of the Township of Sarnia*, 11 U. C. Q. B. 215; *Snook et al v. the Town Council of Brantford*, 13 U. C. Q. B. 621; *Magrath v. the Municipality of the Township of Brock*, 13 U. C. Q. B. 629; *Reid v. the Mayor, Aldermen and Commonalty of the City of Hamilton*, 5 U. C. C. P. 269; *Croft v. the Town Council of Peterborough*, 5 U. C. C. P. 141; *Barclay v. the Municipality of the Township of Darlington*, 5 U. C. C. P. 432.)

(d) It appears therefore that if any thing has been done under a by-law, &c., which is illegal, and gives any person a right of action—1. The action shall be brought against the Corporation that passed the by-law, &c., and not against any person who acted under it. 2. The action is not to be brought while the by-law, &c., is in force, nor until one calendar month has elapsed after the by-law, &c., is quashed or repealed. 3. Before bringing it, one calendar month's notice in writing of the intention to bring it must first be given to the Corporation. 4. Whether notice of action can be given before the by-law, &c., is quashed or repealed is a question, but material only in case the time for bringing the action is limited and the time about to expire. (See *McKenzie v. the Mayor, Aldermen and Commonalty of Kingston*, 13 U. C. Q. B. 634.)

The section declares that no action shall be brought until the by-

TENDER OF AMENDS BY.

202.—In case the Corporation tenders amends to the Plaintiff or his Attorney, (e) if such tender be pleaded and Tender of amends.

law, &c., has been quashed or repealed for one calendar month, and this, as already mentioned, precludes the bringing of the action while the by-law, &c., subsists; but it does not follow that the Statutes of Limitations only begin to run from the time of quashing or repealing. It is clear that actions may be brought (though only against the Corporation) for things done under the illegal by-law, &c., that is things done in pursuance of, or in execution of it, or under its authority while in force. The right of action may be held to vest the moment the thing is done, and, if so, every statute limiting a right of action of the particular kind would begin to run forthwith. Were it not so, very stale matters might be made grounds of action against Municipal Councils, and which in the case of individuals would be outlawed.

(e) The law as to "Tender" is not much understood by the public, and requires some remarks in this place.

1. *Definition.*—A tender in this section means the offering of money in satisfaction of a cause of action arising out of something done under a by-law, order or resolution, quashed or repealed.

2. *How made.*—A tender must be unqualified and unconditional. (*Mitchell v. King*, 6 C. & P. 237; *Jennings v. Turner*, 8 C. & P. 61; *Strong v. Harvey*, 3 Bing. 304.) Whether conditional or not is a question for the jury. (*Marsden v. Goode*, 2 C. & K. 133; *Milburn v. Milburn*, 4 U. C. Q. B. 179.) Strictly speaking the tender ought to be of specie; but a tender in bank notes, if not objected to on the ground of being notes, will be good. (*Blow v. Russell*, 1 C. & P. 365.) The precise sum intended or more must be tendered, without requiring change. (*Brady v. Jones*, 2 D. & R. 305.) The money ought to be actually produced (*Kraus v. Arnold*, 7 Moo. 59; *Leatherdale v. Sweepstone*, 3 C. & P. 342; *Thompson v. Hamilton*, 5 U.C.O.S. 111); but this may be dispensed with by the party to whom the tender is made, as where defendant said he had the money in his pocket, and plaintiff said "You need not give yourself the trouble of offering it, for I will not take it." (*Douglass v. Patrick*, 3 T. R. 684; *Jackson v. Jacobs*, 3 Bing. N. C. 869.) A receipt for the money cannot be insisted upon. (*Cole v. Blake, Peake*, 179.)

3. *To whom made.*—Under this section the amends may be tendered "to the plaintiff or his attorney." A tender strictly speaking ought to be made before the writ is sued out, and if made to the plaintiff himself would be more satisfactory than if made to his attorney. But if the attorney is authorized to settle the business, and writes to defendants previous to suing out the writ, warning them of the action, unless they pay him the money or the like, the tender may clearly be made to the attorney. (*Sellon*, Pr. 2, 315.) The attorney must under any circumstances be one employed in the particular action, and not merely one generally employed by plaintiff. (Ib.) No attorney has authority to compromise an action after writ, by accepting less than the account demanded by the writ or declaration. (See *Swinfen v. Swinfen*, 26 L. J. C. P. 97; 3 Jur. N. S. 85.)

(if traversed) proved, (*f*) and if no more than the amount tendered is recovered, the plaintiff shall have no costs, but costs shall be taxed to the defendant, and set off against the verdict, and the balance due to either party shall be recovered as in ordinary cases. (*g*)

OFFICERS AGAINST BY-LAWS.

Offences
against By-
laws.

203.—In case any Officer of a Municipal Corporation neglects or refuses to carry into effect a By-law for paying a debt, and so neglects or refuses under colour of a By-law illegally attempting to repeal such first mentioned By-law, or to alter the same so as to diminish the amount to be levied under it, such Officer shall be guilty of a misdemeanor, and be punished by fine or imprisonment, or both, at the discretion of the Court whose duty it may be to pass sentence upon him. (*h*)

Jurisdiction
to try.

Summary
proceedings.

204.—In case an offence is committed against a by-law of a Council, for the prosecution of which offence no other provision is made, (*i*) any Justice of the Peace, having jurisdiction in the locality where the offender resides, or where the offence was committed, (*j*) whether the Justice is a member of the Council or not, (*k*) may try and determine any prosecution for the offence. (*l*)

vidence.

205.—The Justice or other authority before whom a prosecution is had for an offence against a Municipal By-law, may

(*f*) It is not enacted that the tender may be given in evidence under the general issue, and it is apprehended that it ought to be specially pleaded.

(*g*) The object of the tender is to prevent useless litigation. The tender admits a cause of action, but limits the amount of damages arising therefrom. The party tendering in effect says, "I admit you have a right to bring this action, but I do not admit that you are entitled to any damages more than the amount tendered." If plaintiff declines the tender, and recovers no more than the amount tendered, he loses his costs, and, worse still, is compelled to pay the costs of defendant, which may be set off against his verdict.

(*h*) *Misdemeanor.*—See note *r* to sec. 55.

(*i*) If for the prosecution of the offence provision is made, and that provision is not contrary to law, it must of course be followed.

(*j*) The offender may be prosecuted either where he resides when apprehended or where the offence was committed.

(*k*) The Head of every Council, which includes Reeves of Townships and Incorporated Villages, the Aldermen of a City, the Reeve of every Town, and the Deputy Reeve of every Township, are *ex officio* Justices of the Peace. (Sec. 340.)

(*l*) The power is not only to "try" but to "determine," that is, to adjudicate finally, &c.

convict the offender on the oath or affirmation of any credible witness, and shall award the penalty or punishment imposed by the By-law with the costs of prosecution, and may by warrant under the hand and seal of the Justice or other authority, or in case two or more Justices act together therein, then under the hand and seal of one of them, cause any pecuniary penalty and costs, or costs only, if not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender. (*m*)

Penalty and costs,

How levied.

206.—In case of there being no distress found, out of which the penalty can be levied, the Justice may commit the offender to the Common Gaol, House of Correction or nearest Lock-up-House, for the term specified in the By-law. (*n*)

Commitment in default of distress.

207.—When the pecuniary penalty has been levied, one moiety thereof shall go to the informer or prosecutor, and the other moiety to the Corporation, unless the prosecution is brought in the name of the Corporation; and in that case the whole of the pecuniary penalty shall be paid to the Corporation. (*o*)

Fines how applied.

208.—The Police Magistrate, or when there is none, the Mayor of a Town or City, shall have jurisdiction in addition to his other powers, to try and determine all prosecutions for offences against the By-laws of the Town or City, and for penalties for refusing to accept office therein, or to make the necessary declarations of qualification and office. (*p*)

Jurisdiction of Mayors and Police Magistrates over penal offences.

(*m*) The powers of the Justice or other authority are under this section the following:

1. To convict the offender on the oath or affirmation of any credible witness.
2. To award the penalty or punishment imposed by the by-law, with the costs of the prosecution.
3. By warrant, to cause any pecuniary penalty and costs, or costs only (as the case may be), to be levied by distress.

(*n*) The form of commitment and other forms requisite under these penal clauses (203–208) ought to be as nearly as may be the same as given in the Summary Convictions Act, 16 Vic. cap. 178.

(*o*) It is submitted that the informer, notwithstanding his expectation of and interest in the penalty, would be “a credible witness” within the meaning of sec. 205. Interest is no longer a ground for the exclusion of evidence. (16 Vic. cap. 19.)

(*p*) A Police Magistrate has generally, as regards the City or Town of which he is an officer, the same jurisdiction as Justices of the Peace have in their several Counties, and his proceedings should be conducted in the same manner as if he were a Commissioned Justice of the Peace. (See 16 Vic. cap. 178.)

DEBENTURES, &c.

HOW TO BE MADE.

Debentures,
Bonds, &c.,
how to be
executed.

209.—All Debentures and other specialities duly authorized to be executed on behalf of a Municipal Corporation shall unless otherwise specially authorized or provided, be sealed with the Seal of the Corporation and be signed by the Head thereof, or by some other person authorized by By-law to sign the same, otherwise the same shall not be valid. (q)

TRANSFERABLE BY DELIVERY, &c.

Debentures
transferable
by delivery
if payable to
bearer.

210.—Any debenture heretofore issued, or issued after this Act takes effect, under the formalities required by law, by any Municipal Corporation, payable to bearer or to any person named therein or bearer, (r) may be transferred by delivery, and such transfer shall vest the property of such debenture in the holder, and enable him to maintain an action thereupon in his own name. (s)

Or, if endorsed
in blank,
when payable
to order.

211.—Any debenture issued as aforesaid, and made payable to any person or order, shall, (after the endorsement thereof in blank, by such person,) be transferable by delivery from the time of the endorsement, (t) and the transfer shall vest the

(q) It has been held, that a debenture issued by a Municipal Council, under its corporate seal and signed by the Head of the Corporation, for the payment of a debt due or loan contracted under a by-law which does not provide by special rate for payment of the debt or loan, does not estop the Municipal Corporation from setting up as a defence to an action on the debenture the invalidity of the by-law. (*Mellish v. the Town Council of the Town of Brantford*, 2 U. C. C. P. 35.) It is the duty of the Clerk of every Municipal Corporation, within two weeks after the final passing of any by-law passed for the purpose of raising money by the issue of debentures, and before the sale or contract of sale of the debentures, to transmit to the County Registrar a copy of the by-law, duly certified, and other like information for the purpose of registration. (22 Vic. cap. 91, sec. 2.)

(r) A debenture resembles the promissory note of an individual, and, like it, may be made payable either to bearer or order. (See next section.)

(s) A debenture is a chose in action; and it is an ordinary rule of law that a chose in action cannot be transferred so as to give the transferee a right to sue at law upon it in his own name. (*Smith's Mercantile Law*, 5 Ed. 229.) The chief exceptions are bills of exchange and promissory notes, which for the benefit of trade have been made negotiable. Another exception is that of a debenture issued under this act. It is apprehended that a debenture transferred abroad is only transferable according to the laws of the foreign country. (See *Trimbey v. Vignier*, 1 Bing. N. C. 151.)

(t) Indorsements are either full or blank. A full indorsement is

property thereof in the holder, and enable him to maintain an action thereupon in his own name. (*u*)

212.—In a suit or action upon any such debenture, it shall not be necessary for the plaintiff to set forth in the declaration or other pleading, or to prove, the mode by which he became the holder of the Debenture, or to set forth or to prove the notices, by-laws or other proceedings under and by virtue of which the Debenture was issued, but it shall be sufficient in such pleading to describe the Plaintiff as the holder of the Debenture, (alleging the indorsation in blank, if any,) and shortly to state its legal effect and purport, and to make proof accordingly. (*v*)

In pleading, sufficient to describe Plaintiff as the holder.

213.—Any such debenture, issued as aforesaid, (*w*) shall be valid and recoverable to the full amount notwithstanding its negotiation by such Corporation at a rate less than par, (*x*) or at a rate of interest greater than six per centum per annum. (*y*)

Full amount recoverable though negotiated at interest exceeding 6 per cent. or below par.

RESTRICTIONS UPON COUNCILS.

214.—No Council shall act as bankers, or issue any Bond, Bill, Note Debenture or other undertaking, of any kind or in any form, or in the nature of a Bank Bill or Note, or intended to form a circulating medium, or to supply the place of specie, or to pass as money; (*z*) nor, unless specially autho-

Restrictions upon Councils as to Banking, issuing bills, bonds, &c.

one which mentions the name of the party in whose favor it is made. An indorsement in blank, one which does not mention such name. (Smith's Mer. Law, 5 Edit. 230.) The latter is the only form of indorsement contemplated by this section. The indorsement of a debenture will not, it is believed, like the indorsement of a bill or note, guarantee its payment. (See *Allen v. Walker*, 2 M. & W. 317.) There is no reason why a debenture should, like a bill or note, be within the law merchant. (Ib.)

(*u*) See note *s* to sec. 210.

(*v*) The provisions of this section are designed to simplify proceedings at law against the municipality by the holder of a debenture, for the amount which it represents. They extend both to pleading and to evidence.

(*w*) Either as mentioned in sec. 210 or sec. 211.

(*x*) And in this respect resembles bills or notes.

(*y*) By statute 22 Vic. cap. 85, it is made lawful "for any person or persons, &c., to stipulate or allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which may be agreed upon" (Sec. 2); but it is provided that nothing therein contained "shall be construed to apply to any corporation or company or association of persons, not being a bank, heretofore authorized by law to lend or borrow money." (Sec. 6.)

(*z*) The object of this and the following section is to confine Muni-

rized so to do, shall any Council make or give any Bond, Bill, Note, Debenture or other undertaking, for the payment of a less amount than one hundred dollars; (a) and any Bond, Bill, Note, Debenture or other undertaking issued in contravention of this Section, shall be void. (b)

To issue bank notes, &c., contrary to this Act, declared a misdemeanor.

215.—In case any person issues or makes, or assists in issuing or making, or knowingly utters or tenders in payment or exchange, any Bond, Bill, Note, Debenture or undertaking, of any kind or in any form, in the nature of a Bank Bill or Note, intended to form a circulating medium, or to supply the place of specie, or to pass as money, contrary to this Act, (c) such person shall be guilty of a misdemeanor. (d)

Granting Monopolies prohibited.

216.—No Council shall have power to give any person an exclusive right of exercising within the Municipality any trade or calling, or to impose a special tax on any person exercising the same, or to require a license to be taken for exercising the same, unless authorized or required by Statute so to do; (e) but the Council may direct a fee, not exceeding one dollar, to be paid to the proper Officer for a certificate of

cipal Councils within the legitimate sphere of their institution. The section under consideration is more particularly directed against the issue of undertakings "intending to form a circulating medium, or to supply the place of specie, or to pass as money,"

(a) This was the old law. (See 12 Vic. cap. 81, sec. 183.)

(b) Whether apparently in the hands of innocent parties or not. Parties contravening the provisions of the section are by the next section made criminally responsible. (Sec. 215.)

(c) This section comprehends two classes of offences. 1. Issuing, making, or assisting in issuing or making, any municipal bond, bill, &c. 2. *Knowingly* uttering or tendering in payment or exchange any such bond, bill, &c.

(d) *Misdemeanor.*—See note *r* to sec. 55.

(e) Monopolies are odious to the law. A monopoly is when the sale of any merchandise or commodity is restrained to one or to a certain number (11 Co. 86), and has three inseparable consequents—the increase of the price, the badness of the wares, the impoverishment of others. (Ib.) By statute 21 Jac. 2, all monopolies and all commissions, grants, licenses, &c., to any person, &c., for any sale, buying, selling, making, working, using of a thing, &c., are void. And any one grieved, &c., may have an action on the statute, and recover treble damages and double costs. So monopolies are contrary to Magna Charta. (2 Inst. 63.) By statute 38 Ed. 3, a merchant may freely deal in all manner of merchandize. The statute of 21 Jac. 2 does not extend to letters patent for inventions, &c. The first part of this section is simply a declaration of the common law. No Municipal Council has a right to grant a monopoly, "unless authorized or required by statute so to do."

compliance with any regulations in regard to such trade or calling. (*f*)

217.—But nothing in this Act contained shall prevent a Council from granting exclusive privileges in any ferry which may be vested in the Corporation represented by such Council. (*g*)

Except as to any ferry.

218.—In case a member of the Council of any municipality, either in his own name or in the name of another, and either alone or jointly with another, enters into a contract of

Contracts by Members with the Corporation,

(*f*) A by-law made only for the *regulation* of any one in the use or exercise of that which he has a right to do, may be good. (Com. Dig. By-law B. 2.)

(*g*) A ferry is a franchise which cannot be set up without the license of the Crown, or the authority of some body corporate or person empowered by the Crown, or the Legislature, to grant the same. (Com. Dig. "Piscary," B.) Ferries, when granted by the Crown in Upper Canada, are generally put up to public competition and leased for a term of not more than seven years. (9 Vic. cap. 9, sec. 2.) The leases or licenses are under the great seal. (8 Vic. cap. 50, sec. 3.) Where the ferry is required over any stream the two shores of which are in different municipalities not in the same county, a license may be granted to either of the municipalities exclusively, or to both conjointly, as may be most conducive to the public interest. (20 Vic. cap. 7, sec. 1.) Where one shore is within the limits of a city, town, or incorporated village, and the other in a township or rural municipality, the license must be issued to the city, town, or incorporated village. (Ib. sec. 4.) The license may be for any period not exceeding 50 years. (Ib. sec. 2.) It confers a right on the municipality or municipalities to establish a ferry from shore to shore, &c., upon condition that the craft to be used shall be propelled by steam, &c. (Ib. sec. 1.) Upon receipt of any such license, the municipality or municipalities may pass a by-law declaring their determination to sublet the ferry, and may sublet the same, for such price and upon such terms, &c., as they deem best. (Ib. sec. 3.) No license of a ferry on the line of the Provincial Frontier can be granted to any person or body corporate beyond the limits of the Province, but must in all cases be granted to the municipality within the limits of which the ferry exists, &c. (Ib. sec. 5.) Any person interfering with the rights, &c., of a licensed ferryman, may be summarily proceeded against under statute 8 Vic. cap. 50. But any person may, notwithstanding these acts, use for his own accommodation his own vessel or craft to cross the river or stream over which a ferry exists. (8 Vic. cap. 50, sec. 1; 9 Vic. cap. 9, sec. 1.) A boat may also, it seems, lawfully ply with passengers from one of the *termini* of a ferry to a place without the limits of the ferry, however near to them, if done *bona fide* and not to injure the ferryman's right. If there be an exclusive ferry from *A.* to *B.*, it does not prevent persons from going by any other boat from *A.* directly to *C.*, though it be near *B.*, provided it be not done fraudulently and as a pretence for avoiding the regular ferry. (Com. Dig. "Piscary," B.)

void in Law
if void in
Equity.

any kind, or makes a purchase or sale, in which the Corporation is a party interested, and which is on that account void in equity (*h*), the same contract, purchase or sale shall also be held void in any action at law thereon against the Corporation. (*i*)

COSTS OF MANDAMUS.

Costs of
Mandamus.

219.—Upon any application for a writ of mandamus for or against a Municipal Corporation, the Courts may, in their discretion, grant or refuse costs. (*j*)

EXECUTIONS AGAINST CORPORATIONS.

Writs of execution
against Municipalities.

220.—Any writ of execution against a Municipal Corporation, may be endorsed with a direction to the Sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following: (*k*)

Sheriff to
deliver statement to
Treasurer.

1. The Sheriff shall deliver a copy of the writ and indorsement to the Chamberlain or Treasurer, or leave such copy at the office or dwelling-house of that officer, with a statement in writing of the Sheriff's fees, and of the amount required to satisfy such execution, including in such amount the interest, calculated to some day as near as is convenient to the day of the service. (*l*)

(*h*) A member of a Municipal Corporation agreed with another party to take a contract from the Corporation for the execution of certain works in his name, the profits whereof were to be divided between the parties. *Held*, that such a contract was in contravention of the municipal law, and the Court of Chancery refused to enforce the agreement for a partnership. (*Collins v. Swindle*, 4 U.C.L.J. 42.)

(*i*) The making of such a contract void at law, as well as in equity, is a new provision.

(*j*) At common law, when a rule *nisi* for a mandamus was discharged, the Courts gave costs or not, to the person opposing it, according to their discretion in each case. (*Kennedy v. The Municipal Council of Sandwich*, 9 U. C. Q. B. 326.)

(*k*) A Municipal Corporation being liable to be sued (see note *d* to sec. 4), is liable to the consequence of a suit, viz., execution. As the assets of the Corporation are not the property of the members of the Corporation, but of the people whom they represent, the form of proceeding by execution against such a corporation, must of necessity differ from that of proceeding by execution against an individual.

(*l*) Notwithstanding the partial abolition of the Usury laws, six per cent. still continues to be the rate of interest in all cases where, by the agreement of the parties or by law, interest is payable, and no rate of interest has been fixed by the parties or by law. (22 Vic. cap. 85, sec. 5)

2. In case the amount, with interest thereon from the day mentioned in the statement, be not paid to the Sheriff within one calendar month after the service (*m*), the Sheriff shall examine the assessment rolls of the Corporation, and shall, in like manner as rates are struck for general municipal purposes, (*n*) strike a rate sufficient in the pound to cover the amount due on the execution, with such addition to the same as the Sheriff deems sufficient to cover the interest, his own fees, and the Collector's per centage, up to the time when such rate will probably be available. (*o*)

If not paid,
a rate to be
struck.

3. The Sheriff shall thereupon issue a precept or precepts, under his hand and seal of office, directed to the Collector or respective Collectors of the Corporation, and shall annex to every precept the roll of such rate, and shall by such precept, after reciting the writ, and that the Corporation had neglected to satisfy the same, and referring to the roll annexed to the precept, command the Collector, or Collectors within their respective jurisdictions, to levy such rate at the time and in the manner by law required in respect of the general annual rates. (*p*)

Sheriff's pre-
cept to levy.

4. In case at the time for levying the annual rates next after the receipt of such precept, the Collectors have a general rate roll delivered to them for such year, they shall add a column thereto, headed "Execution Rate in A. B. vs. The Township (*or as the case may be, adding a similar column for each execution, if more than one*)", and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time they are by law required to make the returns of the general annual rate, return to the Sheriff the precept with the amount levied thereon, after deducting their per centage. (*q*)

Who to col-
lect the rate.

(*m*) As to the computation of time, see note *r* to sec. 98.

(*n*) See sec. 221.

(*o*) It is the duty of the Sheriff to strike a rate "sufficient," &c. No provision exists for the striking of a second rate, in the event of the first proving insufficient. If the amount levied should be *more* than sufficient, provision is made for the disposition of the surplus. (Subsec. 5.)

(*p*) See statute 16 Vic. cap. 182, sec. 41, *et seq.*

(*q*) The duties of Collectors under this clause are the following:

1. To add a column to the general roll, with the heading directed.
2. To insert therein the amount by the precept required to be levied, &c.
3. To levy the amount of the execution rate.
4. To return to the Sheriff, within the time limited, the precept, with the amount levied, after deducting per centage.

Surplus.

5. The Sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after receiving the same, to the Chamberlain or Treasurer, for the general purposes of the Corporation. (*r*)

Clerk, Assessors and Collectors to be officers of the Court from which Writ issues.

6. The Clerk, Assessors and Collectors of the Corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the Sheriff to carry into effect, the provisions of this Act, with respect to such executions, be deemed to be officers of the Court out of which the writ issued, and as such shall be amenable to the Court, and may be proceeded against by attachment or otherwise, to compel them to perform the duties hereby imposed upon them. (*s*)

DEBTS AND RATES.

YEARLY RATES FOR DEBTS.

Yearly rates to be levied, sufficient to pay all debts.

221.—The Council of every township, and the Council of every county, and of every provisional corporation, and of every city, and of every town, and of every incorporated village, respectively, shall assess and levy on the whole ratable property within its jurisdiction (*t*) a sufficient sum in each year to pay all valid debts of the Corporation, whether of principal or interest, falling due within the year. (*u*)

(*r*) As to the computation of the ten days, see note *r* to sec. 98.

(*s*) This is a most important clause. The power of the Court over its officers is of a very summary nature.

(*t*) The assessment is to be made on "the *whole* ratable property," &c. An assessment, therefore, on wild lands alone would be invalid. (*Tylee v. The Municipality of Waterloo*, 9 U. C. Q. B. 572.)

(*u*) The power given is to assess and levy, &c., a sufficient sum in *each* year to pay all *valid* debts, &c., *falling due within the year*. It is not easy to define what is meant by "a valid debt." It may be described as a debt which the corporation is legally liable to pay, and the payment of which may be enforced by process of law. Then the assessment is to be for a valid debt "*falling due within the year*;" therefore an assessment may be made for a debt *incurred* in a previous year, provided it is a valid debt, and fall due within the year in which the assessment is made. This does not apparently exclude a debt which, besides being incurred, fell due in a previous year. Whether a municipal corporation is liable to be sued in any one year for a debt which fell due in a previous year, unless secured by by-law, sanctioned by public vote, is a question. (Sec. 223.) Were such an action to lie, it would afford a strong argument for the legal right of the corporation to levy a rate "for a debt falling due in a *previous* year," which the section under consideration does not authorize. The general inconvenience of retrospective rates has in England been long known and recognized in the courts of law, on the ground that succeeding rate-payers ought not to be made to pay for services of which their

BY-LAWS TO CREATE DEBTS, &c.

222.—Every such Council (*u*) may, under the formalities required by law, (*v*) pass By-laws for contracting debts by borrowing money or otherwise, (*w*) and for levying rates for payment of such debts on the ratable property of the Municipality, for any purpose within the jurisdiction of the Council, (*x*) but no such By-law shall be valid which is not in accordance with the following restrictions and provisions: (*y*)

By-laws for
contracting
debts.

predecessors have had the benefit. (See *The King v. Chappel-warden of Haworth*, 12 East, 556; *Cortis v. Kent Water-works Company*, 7 B. & C. 314; *Rex v. Justices of Flintshire*, 5 B. & Ald. 761; *Woods v. Reed*, 2 M. & W. 777; *Jones v. Johnson*, 5 Ex. 862; S. C. in Error, 7 Ex. 452.) One object of the law, as rate-payers fluctuate, is to protect present inhabitants from being burthened with the expenses of their predecessors. (*The King v. Wavell et al.*, Doug. 116; *The King v. Goodcheap*, 6 T. R. 159; *Attorney-General v. Wigan*, 18 Jurist, 299.) As a rule, money required for municipal purposes ought to be raised as the law directs—beforehand, instead of being in any manner or by any person advanced, in the expectation of reimbursement by the municipality. (See *The King v. Chappel-warden of Bradford*, 12 East, 556; *Towney's Case*, 2 Rayd. 1009; *Dawson v. Wilkinson*, Cases Temp. Hard. 381.) It is for reasons such as these that the power to assess under this section is restricted to debts falling due “within the year.” The result appears to be, that no Municipal Council should incur a debt *without at the same time providing for its payment*. How far a municipality is liable to an action, even within the year, for a debt contracted within the year without the imposition of a rate to meet it, is a question. The question is, how far a debt contracted for any purpose, without a rate or public vote, is a valid debt. The policy of the law appears to be, that all debts should be met by a rate in *anticipation*, or that otherwise the amount should be raised by rate within the current year. By the observance of this policy, abuses may be prevented; but by the neglect of it, abuses will assuredly arise. If there were no such policy to be observed, Council after Council might allow arrears of debts to accumulate year after year, so as to bind future Councils and to burthen future rate-payers. If this were permitted, there would be no check upon the extravagance of municipal councillors,—the end of which would be, in all probability, the bankruptcy of the municipality. Of course where a by-law is, before its passing, submitted, pursuant to sec. 223, to the electors for their assent, there is a check. Where such check exists, the operation of the by-law need not be restricted to the payment of debts “falling due within the year.”

(*u*) *i. e.* The Council of every Township, County, City, Town, and Incorporated Village, and of every Provisional Corporation. (Sec. 221.)

(*v*) *i. e.* Subject to and in observance of the formalities required by law.

(*w*) *Or otherwise*—that is, “otherwise contracting a debt.”

(*x*) See note *u* to sec. 221.

(*y*) *Shall be valid, &c., i. e.* may be set aside, if moved against within the proper time and in the proper manner.

Terms of.

When to
take effect.

When debt
to be
redeemed.

If for gas-
works, &c.

To provide a
yearly rate.

Sufficient in
amount.

Irrespective
of future
increase of
ratable prop-
erty.

1. The By-law, if not for creating a debt for the purchase of Public Works, shall name a day in the financial year in which the same is passed, when the By-law shall take effect; (z)

2. If not contracted for gas or water works, or for the purchase of public works, according to the statutes relating thereto, the whole of the debt and the obligations to be issued therefor shall be made payable in twenty years at furthest from the day on which such By-law takes effect; and if the debt is contracted for gas or water works, the same shall in like manner be paid in thirty years at furthest, from the day on which the By-law takes effect; (a)

3. The By-law shall settle an equal special rate per annum, in addition to all other rates, to be levied in each year, for paying the debt and interest; (b)

4. Such special rate shall be sufficient, according to the amount of ratable property appearing by the last revised Assessment-Rolls, to discharge the debt and interest when respectively payable; (c)

5. The amount of ratable property shall be ascertained irrespective of any future increase of the ratable property of the Municipality, and of any income in the nature of tolls,

(z) As to By-laws for the purchase of public works, see sec. 225 *et seq.*

(a) The power to contract a debt payable at a future period, and to secure its payment at that period by the rate-payers then living, is founded on the principle that the object for which the debt is contracted is one which will benefit future rate-payers as well as those living at the time the debt is contracted. This is quite consistent with the policy of municipal law, as explained in note *u* to sec. 221.

(b) The By-law is to "settle" the rate and not leave it to a municipal officer to be computed (see *The Canada Company v. the Municipal Council of the County of Middlesex*, 10 U. C. Q. B. 93); and when so settled it is to be "an equal special rate per annum," that is, the rate is to be equal in each succeeding year—not fluctuating according to the arbitrary discretion of the Municipality. (*In re Sells and the Municipality of the Village of St. Thomas*, 3 U. C. C. P. 286.)

(c) It does not appear to be necessary that the By-law should set forth the estimates on which it is founded. (*Fletcher v. the Municipality of Euphrasia*, 13 U. C. Q. B. 129.) The Court will intend that proper estimates have been made, in the absence of evidence that they are wanting. (Ib.) If the rate is demonstrated to be insufficient, the by-law may be quashed. (*Perry v. the Town Council of the Town of Whitby*, 13 U. C. Q. B. 564.) It has been held that Municipal Councils cannot by By-law borrow money at a rate of interest exceeding six per cent. (*Wilson and the Municipal Council of the County of Elgin*, 13 U. C. Q. B. 218.) The late Act does not appear to make any alteration of the law in this respect. (See note *y* to sec. 213.)

interest or dividends, from the work, or from any stock, shares or interest in the work, upon which the money to be so raised or any part thereof is intended to be invested, and also irrespective of any income from the temporary investment of the sinking fund or of any part thereof; (d)

6. The By-law shall recite: (1.) The amount of the debt which such new By-law is intended to create, and, in some brief and general terms, the object for which it is to be created; (2.) The total amount required by this Act to be raised annually by special rate for paying the new debt and interest; (3.) The amount of the whole ratable property of the Municipality according to the last revised Assessment-Rolls; and, (4.) The annual special rate in the pound for paying the interest and creating an equal yearly sinking fund for paying the principal of the new debt, according to this Act. (e)

Recitals in:
amount and
object of
debt;
the yearly
rate for the
debt;

The value of
the ratable
property;

The yearly
rate for sink-
ing fund and
interest.

(d) It does not appear to be necessary that the By-law should state the rate to be calculated at so much in the pound on the *actual* value of the ratable property of the Municipality. (*Tylee v. the Municipality of Waterloo*, 9 U. C. Q. B. 572.) In the absence of any thing to the contrary, the Court will intend that the Council has acted according to law. (Ib.)

(e) The by-law should describe the debts and their amounts. (See *The Canada Company v. the Municipal Council of the County of Middlesex*, 10 U. C. Q. B. 93.) These may be shown in the recitals of the By-law. Where a by-law recited that the amount of the whole ratable property of the Township, according to the last assessment returns, was £114,756; and that it would require the annual rate of 2½d. in the pound, as a special rate for payment, &c.; and then enacted that a special rate of 2½d. should be levied to pay the principal and interest of the loan to be raised under the By-law, and that the proceeds of such special rate should be applied solely to the payment, &c., until the same be fully paid and satisfied. *Held* that the recital as to the amount of ratable property and the assessment returns sufficiently appeared, and that it sufficiently appeared that the amount was to be raised in each year. (*In re Cameron and the Municipality of East Nissouri*, 13 U. C. Q. B. 190.) In one part of the By-law, the Reeve was empowered to issue debentures for such sums as should be from time to time required for the purposes mentioned, but not to exceed in the whole £10,000. In subsequent clauses a special rate was imposed to pay "the said sum of £10,000," and the application of "the said sum of £10,000" was pointed out. The debentures were directed to be made payable "within 20 years of the time that this by-law shall come into operation." *Held* that the amount of the loan and the time when the debentures were to be made payable was stated with sufficient certainty. (Ib.) Where a by-law provided that the site of an old town hall should be disposed of, and any money above the proceeds of the hall required for the erection of a new one should be levied on the ratable property in the Municipality, but did not fix the amount or the rate to be levied, this part of the by-law was held

To be assented to by the rate-payers.

Exception as to Counties - other than Cities.

Course of proceeding by County Councils.

223.—Every by-law for raising upon the credit of the Municipality any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the Municipality, in the manner provided for in the 192nd section of this Act. Except that in Counties (other than Cities) the Council of such County or Counties may raise by By-law or By-laws, without submitting the same for the assent of the Electors of such County or Counties, for contracting debts or loans, any sum or sums, over and above the sums required for its ordinary expenditure, not exceeding in any one year twenty thousand dollars. (*f*)

224.—Provided that no such By-law of a County Council for contracting any such debt or loan for an amount, over and above the sums required for its ordinary expenditure, not exceeding in any one year twenty thousand dollars, shall be valid, (*g*) unless the same is passed at a meeting of the Council especially called for the purpose of considering the same, and held not less than three calendar months after a copy of, such By-law at length as the same is ultimately passed, (*h*) together with a notice of the day appointed for considering the same, has been published in some newspaper issued weekly or oftener

bad. (*In re Hawke and the Municipality of Wellesley*, 13 U.C. Q.B. 636.) Not only the rate must be mentioned in the By-law, but the amount to be raised thereby (see *Tylee v. the Municipality of Waterloo*, 9 U.C. Q. B. 572); and also the purpose or object for which it is required. (*Ib.*) Thus "to pay off two debentures held by William Allan, for erecting the court-house in said district" (*Ib.* p. 588), or "for the purpose of liquidating the sum of £1500 due to the Gore Bank, and the sum of £500 due by the District to Alexander Drysdale, Esquire." (*Ib.*)

(*f*) The rule is that every by-law for raising money shall, before the final passing thereof, receive the assent of the electors. The exceptions are, first, by-laws requiring money for ordinary expenditure; secondly, by-laws raising money to be paid in the municipal year in which raised; and, thirdly, by-laws of counties contracting debts or loans not exceeding in any one year twenty thousand dollars.

(*g*) There is some obscurity in these sections. The meaning seems to be that in addition to the sums required for the ordinary expenditure of the year, a County Council may raise, in the form prescribed, a sum not exceeding twenty thousand dollars without a public vote, but that for any additional amount beyond that sum, the sanction of a vote is necessary. (See sec. 192, subsec. 5.)

(*h*) The by-law is to be published at length, "as the same is ultimately passed." Hence if, between publication and passing, a material alteration is made in the by-law, the by-law will be invalid. (*In re Bryant and the Municipality of Pittsburg*, 13 U. C. Q. B. 347.)

within the County, or if there be no such public newspaper, then in a public newspaper published nearest to the County; which said notice may be to the effect following: (i)

FORM OF NOTICE.

The above is a true copy of a proposed By-law to be taken into consideration by the Municipality of the County (or United Counties) of — at —, in the said County (or United Counties) on the — day of —, 18—, at the hour of — o'clock in the — noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

G. H., Clerk.

PURCHASE OF PUBLIC WORKS.

225.—(1.) Any Council may contract a Debt to Her Majesty, in the purchase of any of the Public Roads, Harbors, Bridges, Buildings or other Public Works in Upper Canada; and may execute such Bonds, Deeds, Covenants and other Securities to Her Majesty, as the Council may deem fit, for the payment of the price of any such Public Work already sold or transferred, or which may be sold or transferred, or agreed to be sold or transferred to such Municipal Corporation, and for securing the performance and observance of all or any of the conditions of sale or transfer; and may also pass all necessary by-laws for any of the purposes aforesaid. And all such By-laws, Debts, Bonds, Deeds, Covenants and other Securities shall be valid, although no special or other rate per annum has been settled or imposed to be levied in each year, as provided by the three last preceding sections of this Act: (j)

Municipal Councils may purchase public works, and contract debts without imposing a yearly rate as provided in the three last sections.

(2.) But any Council may in any By-law to be passed for the creation of any such Debt, or for the executing any such Bonds, Deeds, Covenants or other Securities as aforesaid, to Her Majesty, or in any other By-law to be passed by the Council, settle and impose a Special Rate per annum, of such amount as the Council may deem expedient, in addition to all other rates whatsoever, to be levied in each year upon the assessed ratable property within the Municipality, for the payment and discharge of such Debts, Bonds, Deeds, Covenants or other Securities, or some part thereof; and the By-law shall be valid, although the Rate settled or imposed thereby be less than is required by the said sections last mentioned, and the

Rates may be imposed for the payment of debts contracted with the Crown, for such Works.

(i) See note *u* to sec. 198.

(j) This subsection is taken from statute 14 & 15 Vic. cap. 124, sec. 1.

said sections shall, so far as applicable, apply and extend to every such By-law, and the moneys raised or to be raised thereby, as fully in every respect as such provisions would extend or apply to any By-law enacted by any Council for the creation of any Debt, as provided in the said sections, or to the moneys raised or to be raised thereby. (*k*)

HOW ACCOUNTS OF DEBTS AND RATES TO BE KEPT.

Two special accounts to be kept: 1, of the Special rates; 2, of the Sinking Fund.

226.—The Council of every County, Provisional Corporation, Township, City, Town and incorporated Village, shall keep in its books two separate Accounts, one for the Special Rate, and for the Sinking Fund, of every debt, to be both distinguished from all other accounts in the books by some prefix designating the purpose for which the debt was contracted; and shall keep the said Accounts, with any others that are necessary, so as to exhibit at all times the state of every debt, and the amount of moneys raised, obtained and appropriated for payment thereof. (*l*)

When surplus to be carried to the Sinking Fund Account.

227.—If, after paying the interest of a debt and appropriating the necessary sum to the Sinking Fund, of such debt for any financial year, (*m*) there is a surplus at the credit of the Special Rate Account of such debt, (*n*) such surplus shall

(*k*) This subsection is taken from sec. 2 of 14 & 15 Vic. cap. 124. It requires the by-laws authorized to be framed according to the provisions of the sections to which reference is made, but exempts them from the approbation of a public vote.

(*l*) In this section there is a subject and an object. The subject is accounts, and the object is that such accounts shall be so kept "as to exhibit at all times the state of every debt, and the amount of money raised, obtained, and appropriated for payment thereof." Two accounts are mentioned,—the Special Rate account, and the Sinking Fund account. The amount of all rates collected and received by the Treasurer will appear in the first, and from it be transferred to the second, all such sums as form portions of the sinking fund or fund accumulated for the payment of principal. The first or special rate account will constitute the interest account as well as the general account, and the sums required for interest will be retained therein until disbursed, and then be charged thereto. The sums transferred on account of principal to the second or sinking fund account, will of course be also charged against the first or special rate account, and when transferred be credited to the second or sinking fund account. It is unnecessary to remark upon the great importance of the accounts being kept with the utmost care and accuracy.

(*m*) As mentioned in last note.

(*n*) A surplus beyond the interest may arise from the increase of ratable property, &c.; for when a by-law creating a debt, &c., is passed, the ratable property is ascertained, *irrespective of any future increase*, &c. (See subsec. 5 to sec. 222.)

so remain, and may be applied, if necessary, towards the next year's interest; but if such surplus exceeds the amount of the next year's interest, the excess shall be carried to the credit of the Sinking Fund Account of such debt. (o)

HOW SURPLUS TO BE INVESTED.

228.—Every such Council shall, from time to time, invest in Government securities or otherwise, as the Governor in Council directs, such part of the produce of the special rate levied in respect of any debt and at the credit of the Sinking Fund Account, or of the Special Rate Account thereof as cannot be immediately applied towards paying the debt by reason of no part thereof being yet payable; (p) and the Council shall apply all interest or dividends received upon such investments to the same purpose as this Act directs the amount levied by the Special Rate to be applied, (q) but it shall nevertheless be lawful for the Governor in Council by order to direct that said part of the produce of the Special Rate levied and at the credit of the Sinking Fund Account, or the Special Rate Account as aforesaid, instead of being so invested as aforesaid, shall, from time to time as the same shall accrue, be applied to the payment or redemption, at such value, not exceeding par, as the said Council can agree for, of any part of such debt or of any of the debentures representing or constituting such debt or any part of it, though not then payable, to be selected as provided in such order, and the Council shall thereupon apply and continue to apply said part of the produce of the Special Rate at the credit of the Sinking Fund or Special Rate Accounts as directed by such order. (r)

How surplus
to be dis-
posed of.

Investment
how to be
made.

Application
of moneys
with consent
of Governor
in Council.

(o) If the surplus of the special rate account in any year exceeds the payment of the ordinary calls upon it, together with the next year's interest, the excess may be transferred to the sinking fund account, that is, applied towards the liquidation of principal. Provision is by the next section made for the investment of the excess. (Sec. 228.)

(p) See last note.

(q) This provides for the safe keeping of the funds accruing more especially to the sinking fund account, which may be required to accumulate for twenty or thirty years. (Sec. 2 of subsec. 222.)

(r) The latter part of this section is new, and was added in committee of the Legislative Council. If acted upon, it would prevent the accumulation of moneys to the sinking fund account, but would extinguish the principal of the debt to the same extent that it would otherwise increase.

APPROPRIATION OF SURPLUS.

Council may apply other funds towards such debts.

229.—Every such Council may appropriate to the payment of any debt the surplus income derived from any public or corporation work, or from any share or interest therein, after paying the annual expenses thereof, or any unappropriated money in the Treasury, or any money raised by additional rate; and any money so appropriated shall be carried to the credit of the Sinking Fund of the debt. (s)

WHEN BY-LAWS CREATING DEBTS REPEALABLE.

When part only of a debt has been incurred, the By-law may be repealed *pro tanto*.

230.—When part only of a sum of money provided for by a By-law has been raised, the Council may repeal the By-law as to any part of the residue and as to a proportionate part of the Special Rate imposed therefor, provided the repealing By-law recites the facts on which it is founded, and is appointed to take effect on the thirty-first day of December in the year of its passing, and does not affect any rates due, or penalties incurred before that day, and provided the By-law is first approved by the Governor in Council: (t)

By-laws not repealable and appropriations not revocable till debt paid.

231.—After a debt has been contracted, the Council shall not, until the debt and interest have been paid, repeal the By-law under which the debt was contracted, or any By-law for paying the debt or the interest thereon, or for providing therefore a rate or additional rate, or appropriating thereto the surplus income of any work or of any stock or interest

(s) And probably create a surplus in the sinking fund account, inasmuch as when a by-law creating a debt, &c., is passed, the ratable property of the municipality is ascertained, irrespective of any income in the nature of tolls, interest or dividend from the work upon which the money to be raised or any part thereof is to be invested. (Sec. 222, subsec. 5.)

(t) The meaning of this section is obvious, and it may be acted upon quite consistently with the rights of creditors. It is an erroneous impression, when once a Municipal Council has determined to contract a loan, in order to aid, for example, in advancing a public work, that the whole matter of the by-law passed for that object is entirely out of their control, and not merely such parts of it as are necessary for securing those who have advanced money under its provisions. (*In re Hill and the Municipal Council of Walsingham*, 9 U.C.Q.B. 310.) No by-law passed under this section can take effect,

1. Unless it recite the facts on which it is founded.
2. Unless it be appointed to take effect on the 31st December in the year of its passing.
3. Unless it be approved by the Governor in Council.
4. Nor if it affect any rates due, or penalties incurred, before the day it take effect.

therein, or money from any other source; and the Council shall not alter a by-law providing any such rate so as to diminish the amount to be levied under the By-law, except in the cases herein authorized, (u) and shall not apply to any other purpose any money in the Corporation Treasury which, not having been previously otherwise appropriated by any By-law or Resolution, has been directed to be applied to such payment. (v)

WHEN SPECIAL RATE MAY BE REDUCED.

232.—In case the special rate imposed for the payment of a debt, and collected for any particular year, or on hand from previous years, with such sums as are derived for such particular year from the surplus income of any work, or of any share or interest therein applicable to the Sinking Fund of the debt, or from the temporary investment of the Sinking Fund of the debt, or any part of it, and respectively carried to the credit of the Sinking Fund for such particular year, amount together, or in case any of them singly or together amount to more than the annual sum required to be raised as a special rate to pay the debt and interest, and therefore leave a surplus after paying the interest and making the necessary appropriation to the Sinking Fund of the debt, for such year, (w) the Council may pass a By-law reducing the total amount to be levied under the original By-law for the following year to a sum not less than the difference between such

When the rate imposed by By-law may be reduced by By-law.

(u) The provisions of this section are necessary for the security of creditors. It is enacted, first, that no Council shall either repeal a by-law under which a debt is contracted, or, secondly, alter a by-law providing the rate so as to diminish the amount to be levied under the by-law, &c. The by-law, however, may, under certain circumstances, be in part repealed, pursuant to sec. 230; so the rate may, under certain circumstances, be reduced, pursuant to secs. 232 & 233.

(v) This requires the sinking fund to be left untouched, and prohibits the Council withdrawing any money transferred thereto, or otherwise applying any funds that have been appropriated thereto.

(w) This section is not very clearly expressed. It is provided that if there be a surplus in any year after paying the annual sum required to be raised as a special rate to the interest and fee fund appropriation, the Council may pass a by-law reducing the rate mentioned in the by-law. The surplus may arise from,

1. The special rate collected for the year.
2. The surplus on hand from former years.
3. The surplus income for the year of any work, share, or interest thereon, applicable to the sinking fund,
4. The interest accruing from the temporary investment of any portion of the sinking fund.

last mentioned surplus and the annual sum which the original By-law named and required to be raised as a special rate. (x)

(x) Having discovered the existence of a surplus arising from the sources mentioned in the last note, the Council should, first, ascertain the precise amount of the surplus; secondly, ascertain the total amount to be levied for the then next following year; thirdly, deduct the one from the other; and, fourthly, take credit for the result, and reduce the original rate so as to yield no more than what is necessary after taking such credit.

To ascertain the surplus, it is apprehended that the interest and fee fund appropriation of the current year, as well as an amount equal to the interest of the year following, ought to be deducted from the amount at the credit of the special rate account. In the event of there being a surplus in any year after paying interest and appropriating the necessary sum to the sinking fund, sec. 227 requires such surplus to remain in the special rate account, to be applied if necessary towards the next year's interest. If the surplus exceed the following year's interest, the excess may be transferred to the sinking fund account, in reduction of principal; if not so transferred, the excess may be disposed of under the section here annotated. It is in this way only that the two sections can be reconciled, and if not so read, they appear to be irreconcilable. In any event it would appear to be necessary, before dealing with the surplus, to see not only that there is enough at the credit of the special rate account to meet the interest and sinking fund appropriation of the current year, but the interest of the year following. If after such calculation enough is found for the two years and to spare, the excess may be either transferred under sec. 227 to the sinking fund, or be dealt with under the section here annotated—that is, looked upon as so much collected in anticipation of the requirements of the year following, leaving the balance only between it and the amount necessary, according to the original by-law, to be levied. Money once carried to the sinking fund, under sec. 227, cannot be withdrawn: it cannot be looked upon as so much in hand towards meeting the liabilities, under the by-law, for the year following.

The course, therefore, recommended is, whenever a surplus is in any year found to exist, to retain to the credit of the special rate account, besides the requirements of the year, a sum equal to the interest of the following year, and then, first, either to carry the balance to the sinking fund account, under sec. 227, or, secondly, to consider it as so much in hand for the next following year, and to reduce the rate of that year so as to make up the deficiency only.

An example may be given:—£100,000 is borrowed in 1858, payable in 1878, interest yearly at 6 per cent. In 1858, it is found with reference to the amount of ratable property in the Municipality that to meet the annual interest and appropriate an annual sum to the sinking fund account, a rate of 1d. in the £ is necessary. In 1860, owing to the increase of ratable property and other causes, after paying the interest and sinking fund appropriation of that year out of the special rate account, a surplus of £8000 is found to exist at the credit of that account. The interest, for 1861, on £100,000, would be £6000. Deducting this, there is still an excess of £2000. This may be either, under sec. 227, transferred to the

233.—But the By-law shall not be valid—unless it recites : Recitals requisite in such By-law.

1. The amount of the special rate imposed by the original By-law; (*y*)

2. The balance of such rate for the particular year or on hand from former years; (*z*)

3. The surplus income of the work, share or interest therein received for such year; (*a*) and

4. The amount derived for such year from any temporary investment of the Sinking Fund; (*b*)

Nor unless the By-law names the reduced amount in the pound to be levied under the original By-law—(*c*) Reduced rate to be named.

Nor unless the By-law is afterwards approved by the Governor in Council. (*d*) To be approved of by the Governor.

ANTICIPATORY APPROPRIATIONS.

234.—In case any Council desires to make an Anticipatory Appropriation for the next ensuing year in lieu of the special rate for such year, in respect of any debt, (*e*) the Council may do so, (*f*) by By-law, in the manner and subject to the provisions and restrictions following : Anticipatory appropriations may be made.

1. The Council may carry to the credit of the Sinking Fund account of the debt, as much as necessary for the purpose aforesaid; (*g*) What Fund may be so appropriated.

sinking fund account, or, under sec. 232, considered as money collected towards meeting the engagements of 1861, under the By-law. If the latter, suppose the amount necessary to be raised in 1861 to be £10,000. Here we deduct not only the £6000 interest already reserved, but £2000 clear surplus—leaving only £2000, and *not* £10,000, to be raised by rate. Now, if it required 1d. to raise £10,000, it will only require one-fifth of 1d. to raise £2000. The rate therefore may, for 1861, under this section, be reduced from 1d. to one-fifth of 1d. Such is the object and operation of the law.

(*y*) See sec. 222, subsec. 3.

(*z*) See note *x* to sec. 232.

(*a*) See note *w* to sec. 232.

(*b*) See same note.

(*c*) See note *x* to sec. 232.

(*d*) *Afterwards* approved, &c., *i. e.* after it is prepared according to the requirements of this section and before its final passing.

(*e*) This and the foregoing sections are made for the relief of the rate-payers, provided the security of the creditors is not lessened.

(*f*) *May do so.*—There is nothing imperative. The doing so or not doing so is a matter of discretion.

(*g*) *Aforesaid*, *i. e.* of making an Anticipatory Appropriation for

(1.) Of any money at the credit of the Special Rate Account of the debt beyond the interest on such debt for the year following that in which the Anticipatory Appropriation is made; (*h*)

(2.) And of any money raised for the purpose aforesaid by additional rate or otherwise; (*i*)

(3.) And of any money derived from any temporary investment of the Sinking Fund; (*j*)

(4.) And of any surplus money derived from any corporation work or any share or interest therein; (*k*)

(5.) And of any unappropriated money in the Treasury;

Such moneys respectively not having been otherwise appropriated. (*l*)

The sources
to be distinguished.

2. The By-law making the appropriations shall distinguish the several sources of the amount and the portions thereof to be respectively applied for the interest and for the Sinking Fund appropriation of the debt for such next ensuing year; (*m*)

When sufficient, the yearly rate may be suspended for the future year.

3. In case the money so retained at the credit of the Special Rate Account and so appropriated to the Sinking Fund Account, from all or any of the sources above mentioned, are sufficient to meet the Sinking Fund Appropriation and interest for the next ensuing year, the Council may then pass a By-law directing that the original rate for such next ensuing year be not levied. (*n*)

the next ensuing year, in lieu of the special rate for such year, in respect of any debt, &c.

(*h*) Here it is clear that a year's interest in advance is to be retained as directed by sec. 227, and pointed out in note *x* to sec. 232.

(*i*) *Purpose aforesaid.*—See note *g*, above.

(*j*) The investment authorized by sec. 228.

(*k*) See sec. 232 and notes thereto.

(*l*) The right of a Municipal Council to take moneys already appropriated and apply them to purposes different from the original appropriation is very questionable. Though sometimes done, it ought never to be encouraged. In the case of appropriations to the Sinking Fund Account of a debt, it cannot be legally done.

(*m*) The sources to be one or other of the foregoing.

(*n*) When the surplus, though not equal to the product of the entire rate for a year, is considerable, a by-law may be passed for the proportionable reduction of the rate (sec. 232); but when the surplus is sufficient to meet the Sinking Fund Appropriation and interest for a year, a by-law may be passed to the effect that for that year the original rate be not levied.

235.—The By-law shall not be valid unless it recites : (*o*)

1. The original amount of the debt, and in brief and general terms, the object for which the debt was created ; (*p*) The By-law to recite the original debt.
2. The amount, if any, already paid of the debt : The amount paid.
3. The annual amount of the Sinking Fund Appropriation required in respect of such debt ; The amount of Sinking Fund yearly
4. The total amount then on hand of the Sinking Fund Appropriations, in respect of the debt, distinguishing the amount thereof in cash in the treasury from the amount temporarily invested ; The amount in hand.
5. The amount required to meet the interest of the debt, for the year next after the making of such Anticipatory Appropriation ; and (*q*) The amount required for next year's interest.
6. That the Council has retained at the credit of the Special Rate Account of the debt, a sum sufficient to meet the next year's interest (naming the amount of it), and that the Council has carried to the credit of the Sinking Fund Account a sum sufficient to meet the Sinking Fund Appropriation (naming the amount of it) for such year ; and And that it is reserved.
7. No such By-law shall be valid unless approved by the Governor in Council. (*r*) By-law to be approved by Governor.

236.—After the dissolution of any Municipal Union, the Senior Municipality may make an Anticipatory Appropriation for the relief of the Junior Municipality, in respect of any debt secured by By-law, in the same manner as the Senior Municipality might do on its own behalf. (*s*) After the dissolution of a Union, the Senior Municipality may relieve the Junior by an anticipatory appropriation.

REPORT OF DEBTS TO BE MADE YEARLY.

237.—Every Council shall, on or before the thirty-first day of January in each year, transmit to the Governor General, through the Provincial Secretary, an account of the several debts of the Corporation, as they stood on the thirty-first Every Council to make a yearly report of the state of the debts to the Governor, &c.

(*o*) This section bears the same relation to sec. 234 that sec. 233 does to sec. 232. The one is for the reduction of the special rate for a year, the other for the cessation of it.

(*p*) See note *e* to sec. 222.

(*q*) See note *x* to sec. 232.

(*r*) See note *d* to sec. 233.

(*s*) An anticipatory appropriation in relief may it is apprehended be either one in reduction of the special rate for a given year (sec. 232) or for the cessation of the rate for that year (sec. 234).

day of December preceding, (*t*) specifying in regard to every debt of which a balance remained due at that day:

1. The original amount of the debt;
2. The date when it was contracted;
3. The days fixed for its payment;
4. The interest to be paid therefor;
5. The rate provided for the redemption of the debt and interest;
6. The proceeds of such rate for the year ending on such thirty-first day of December;
7. The portion (if any) redeemed of the debt during such year;
8. The amount of interest (if any) unpaid on such last mentioned day; and
9. The balance still due of the principal of the debt.

The Governor may prescribe a form of account.

238.—The form of the account may from time to time be prescribed by the Governor in Council. (*u*)

COMMISSIONS OF INQUIRY RESPECTING MUNICIPAL FINANCES.

When a commission of inquiry may issue.

239.—In case one-third of the members of any Council petition for a Commission to issue under the Great Seal, to inquire into the financial affairs of the Corporation and things connected therewith, and if sufficient cause be shown, (*v*) the Governor in Council may issue a Commission accordingly, and the Commissioner or the Commissioners, or such one or more of them as the Commission empowers to act, shall have the same power to summon witnesses, enforce their attendance, and compel them to produce documents and to give evidence, as any Court has in civil cases. (*w*)

(*t*) The design of this return is to inform the Executive Government, yearly, of the financial position of each Municipality. The officer whose duty it may be to prepare the return is allowed one month to do so.

(*u*) It is conceived that any form prescribed cannot do better than afford a column for each item of information mentioned in sec. 237.

(*v*) The commission is not to issue merely upon the petition of one-third of the members of the Council, but upon *sufficient cause shown*.

(*w*) If this includes the power to attach and imprison for non-attendance or other contempt, the power conferred may be a very serious one to the liberty of the subject. The policy of allowing Commissioners to judge of contempts is a doubtful one. It would be

240.—The expense to be allowed for executing the Commission shall be determined and certified by the Inspector General or his Deputy, and shall become thenceforth a debt due to the Commissioner or Commissioners by the Corporation, and shall be payable within three calendar months after demand thereof made by the Commissioner, or by any one of the Commissioners, at the office of the Treasurer of the Corporation. (*x*)

Expenses of such Commissions provided for.

PROVISIONS APPLICABLE TO ALL MUNICIPALITIES EXCEPT PROVISIONAL CORPORATIONS.

241.—The following Section applies to all Municipalities, (*y*) namely:

Sections applicable to all, except Provisional Councils.

- | | |
|---------------|--|
| 1. Counties, | 4. Towns and |
| 2. Townships, | 5. Incorporated Villages. (<i>z</i>) |
| 3. Cities, | |

242.—The Council of every County, Township, City, Town and Incorporated Village may respectively pass By-laws: (*a*)

Council may make By-laws:

OBTAINING PROPERTY.

1. For obtaining such real and personal property as may be required for the use of the Corporation, and for erecting, improving and maintaining a hall and any other houses and build-

For obtaining property, real and personal, &c.;

much better to enable them to issue writs of subpoena from the courts, and, if not obeyed, to authorize the courts in the ordinary mode to enforce obedience. (See statute 9 Vic. cap. 38.)

(*x*) The expenses are to be *determined* by the Inspector General, or his Deputy. No appeal of any kind is provided for. When determined, the account may be certified. When certified, the amount of it becomes a debt due by the Municipality to the Commissioner or Commissioners. It is to become payable "*within three calendar months after demand.*" The intention appears to be to give three months for payment. If so, it is a debt due, but not payable until three months after demand. When it becomes a debt payable, of course it may be, like any other debt, recovered by action at law.

(*y*) To avoid the necessity of repeating similar provisions under the head of each description of Municipality separately, the Legislature, in referring to the Municipalities to which the several sections relate, has grouped the provisions under joint heads. Any Municipality, whether of a county, city, township, town, or incorporated village, can readily find the sections in which it is interested, by observing the leading titles prefixed to groups of sections.

(*z*) These sections, it will be observed, are not made to apply to provisional corporations. The leading title is "Provisions applicable to all municipalities *except provisional corporations.*"

(*a*) *By-laws.*—See note *v* to sec. 186.

ings required by and being upon the land of the Corporation, (b) and for disposing of such property when no longer required; (c)

APPOINTING CERTAIN OFFICERS.

To appoint
officers;

2. For appointing (d) such,—

- | | |
|---------------------|-----------------------------|
| (1.) Pound-Keepers; | (3.) Overseers of Highways; |
| (2.) Fence-Viewers; | (4.) Road Surveyors; |

(5.) And other officers as are necessary in the affairs of the Corporation, (e) or for carrying into effect the provisions of any Act of the Legislature for the removal of such officers.

(b) The Court of Queen's Bench refused a rule nisi for a mandamus at the instance of the Justices of the Huron District, to compel the Municipal Council of the Huron District to build a court-house. (*Justices of the Huron District v. the Huron District Council*, 5 U. C. Q. B. 574.) It is undecided whether, if a Municipal Council neglects to repair the steps leading to a court-house, and an individual in consequence thereof falls and loses his life, an action will lie against the corporation, at the suit of his representatives, under 10 & 11 Vic. cap. 6. (*Hawkeshaw v. the District Council of the District of Dalhousie*, 7 U. C. Q. B. 590.) A by-law passed by the Municipal Council of Prescott and Russell, to tax the township of Russell for the erection of a registry office for the use of the united counties, was set aside. (*Smith v. the United Counties of Prescott and Russell*, 10 U. C. Q. B. 282.)

(c) The several Municipal Councils named would appear to have authority to dispose of an old town hall and its site, when they think that another situation would be more convenient. (*In re Hawke and the Municipality of Wellesley*, 13 U. C. Q. B. 636.)

(d) It is not here described in what manner, that is, whether under corporate seal or otherwise, the officers in this section named are to be appointed. The bill, when introduced to the House of Assembly, had the words "under the corporate seal;" but these words were afterwards struck out in committee. It has always been a recognized qualification of the principle which requires the use of the seal, that there are certain small matters of such frequent occurrence in the course of conducting affairs by a corporation, that it appears to be of necessity that corporations should be allowed to transact them without going through the formality of a sealed instrument. The hiring of servants to perform their ordinary duties has from a very early period been one of these exceptions. (*Raines v. the Credit Harbour Company*, 1 U. C. Q. B. 174.) Whether the officers named in this section come within the exception is, to say the least of it, doubtful. The old law required such appointments to be under the corporate seal. (12 Vic. cap. 81, sec. 31, subsec. 5.)

(e) There is power given to appoint, not only the officers described, but "other officers necessary in the affairs of the corporation." This opens a door to abuses; but perhaps a restriction to officers named might have worked great inconvenience.

3. For regulating the remuneration, fees, charges and duties of such officers, (*f*) and the securities to be given for the performance of such duties; To fix fees and securities;

AIDING AGRICULTURAL AND OTHER SOCIETIES.

4. For granting money or land in aid of the Agricultural Association of Upper Canada, (*g*) or of any duly organized Agricultural (*h*) or Horticultural Society in Upper Canada, (*i*) or of the Board of Arts and Manufactures for Upper Canada, (*j*) or of any incorporated Mechanics' Institute within the Municipality: (*k*) For aiding agricultural societies;

CENSUS.

5. For taking a Census of the inhabitants, or of the resident Male freeholders and householders of the Municipality; (*l*) Local census.

FINES AND PENALTIES.

6. For inflicting reasonable fines and penalties not exceeding Fifty dollars exclusive of costs,— Fines and penalties for neglect of duty.
- (1.) Upon any person for the non-performance of his duties who has been elected or appointed to any office in the Corporation, and who has accepted such Office and taken the oaths, and afterwards neglects the duties thereof, (*m*) and

(*f*) *Such officers, i. e.* the officers named and other officers necessary in the affairs of the corporation.

(*g*) The Members of the Boards of Agriculture, and of the Boards of Arts and Manufactures, the Presidents and Vice-Presidents of all lawfully organized County Agricultural Societies, and of all Horticultural Societies, and all subscribers of five shillings annually to the funds of any such society, are in Upper Canada the Agricultural Association of Upper Canada. (20 Vic. cap. 32, sec. 31.)

(*h*) An Agricultural Society may be organized in each of the electoral divisions of Upper Canada, &c. (Ib. sec. 37.)

(*i*) Any number of persons, not less than twenty-five, may organize and form themselves into a Horticultural Society, for any city, town, township or village, in Upper Canada, &c. (Ib. sec. 48.)

(*j*) "The Board of Arts and Manufactures for Upper Canada" is constituted and incorporated by sec. 18 *et seq.* of 20 Vic. cap. 32.

(*k*) Many institutes are incorporated by special Acts of Parliament.

(*l*) This is a new provision. The only statutable provision of the kind heretofore existing was for a *provincial* census. (14 & 15 Vic. cap. 49.)

(*m*) Refusal to *accept* office or to make the necessary declarations are penal by sec. 183. This subsection applies only to persons who, having accepted office, neglect the duties thereof, &c.

(2.) For breach of any of the By-laws of the Corporation; (n) and

7. For collecting such penalties by distress and sale of the goods and chattels of the offender; (o)

Imprisonment when allowed, and time of.

8. For inflicting reasonable punishment, by imprisonment with or without hard labour either in a Lock-up-house in some Town or Village in the Township, or in the County Gaol or House of Correction for any period not exceeding Twenty-one days, for breach of any of the By-laws of the Council in case of non-payment of the Fine inflicted for any such breach, and there being no distress found out of which such fine can be levied. (p)

PROVISIONS APPLICABLE TO TOWNSHIPS, CITIES, TOWNS, AND INCORPORATED VILLAGES. (q)

What sections shall so apply.

243.—The following Sections numbered from 244 to 254, (r) shall apply to the following Municipalities namely:

- | | |
|---------------|---------------------------|
| 1. Townships, | 3. Towns, and |
| 2. Cities, | 4. Incorporated Villages. |

PUBLIC HEALTH.

Members of Council to be Health Officers.

244.—The Members of every Township, City, Town and Incorporated Village Council shall be Health Officers within their respective Municipalities, under the Statute of Upper Canada, passed in the fifth year of the reign of His late Majesty, King William the Fourth, intituled, *An Act to promote the Public Health and to guard against infectious diseases in this Province*, and under any Act hereafter passed for the like purpose; (s) but any such Council may by By-law dele-

(n) The power to make By-laws necessarily supposes the power to enforce them by pecuniary penalties, competent and proportionable to the offence. (note v. to sec. 186.) The limitation here to fines "not exceeding fifty dollars" is as wise as it is necessary.

(o) If there is no distress, imprisonment may follow. (See subsec. 8.)

(p) Imprisonment is not allowable in the first instance. It is only allowed in case of non-payment of the fine inflicted, and where there is no sufficient distress. When inflicted it must be reasonable, that is, be proportionate to the nature and degree of the offence. It must not, however, under any circumstances, exceed twenty-one days. It may be either with or without hard labor.

(q) See note y to sec. 241.

(r) This, it is apprehended, is a mistake. The numbers ought to be from 244 to 260. The numbers of the sections were altered in committee, and "254" inadvertently allowed to remain unaltered.

(s) The act here mentioned authorizes the Governor-General to

gate the powers of its members as such Health Officers to a committee of their own number, or to such persons, either including or not including some of themselves, as the Council thinks best. (*t*)

245.—The Council of every Township, City, Town and Incorporated Village may respectively pass By-laws, (*u*) Council may make By-laws.

SHOP AND TAVERN LICENSES.

1. For granting Tavern Licenses (that is licenses for the retail of spirituous, fermented or other manufactured liquors to be drunk in the Inn, Ale-house, Beer-house or other house, or place of entertainment in which the same is sold), and for granting shop licenses, (that is licenses for the retail of such liquors in Shops, Stores or other places other than Inns, Ale-houses, Beer-houses or places of public entertainment; For retailing intoxicating liquors.

2. For declaring the terms and conditions required to be complied with, by an applicant for a Tavern license, and the security to be given by him for observing the same; Terms on which license may be granted.

3. For declaring the security to be given by any applicant for a Shop or Tavern License, for observing the By-laws of the Municipality; Security to be given.

4. For limiting the number of Tavern and Shop licenses respectively; Number may be limited.

5. For regulating the houses or places licensed, the time the licenses are to be in force, not exceeding one year, and the sums to be paid therefor respectively. Regulation of public houses.

PROHIBITED SALE OF SPIRITUOUS LIQUORS.

6. For prohibiting the sale by retail of spirituous, fermented or other manufactured liquors in any Inn or other House of public entertainment; and for prohibiting the sale thereof in Shops and places other than houses of public entertainment; Provided the By-law, before the final passing thereof, has been duly approved by the Electors of the Municipality in the manner provided by this Act; (*v*) Sale of liquors in shops or taverns may be prohibited.

appoint three or more persons in each and every town, and in such other places as may be deemed necessary, to act as Health Officers (5 Wm. IV. cap. 10, sec. 1), with very extensive powers. (Ib. secs. 2 & 6.)

(*t*) The delegation, it is to be observed, is not to be except by *by-law*.

(*u*) *By-laws*.—See note *v* to sec. 186.

(*v*) The power of a Municipal Council to grant a license for the sale of spirituous liquors to a particular house, and afterwards to prohibit the sale of spirituous liquors in that house on certain days or at certain hours, has been doubted. (*Baker v. the Municipal Council of Paris*, 10 U. C. Q. B. 621) The power to prohibit the sale of spirituous

The sums to be paid for licenses.

Sum to include the Imperial duty and that under 22 V. c. 76.

246.—The sum to be paid for a tavern license shall include as well the duty payable under the Imperial Statute passed in the fourteenth year of the reign of King George the Third, intituled, *An Act to establish a fund towards defraying the charges of the administration of Justice and the support of the Civil Government within the Province of Quebec*, (w) as the duty payable under any Act passed in the present or any future session of the Parliament of this Province, (x) and

liquors in an inn under any circumstances, has also been doubted. (*In re Barclay and the Municipality of Darlington*, 11 U. C. Q. B. 470.) But as the powers by this section conferred upon the Councils of every township, city, town, and incorporated village, are not only, 1, for granting tavern and shop licenses; 2, for declaring the terms and conditions of granting the same; 3, for declaring the security to be given by any applicant; 4, for limiting the number of tavern and shop licenses respectively; 5, for regulating the houses or places licensed; but, 6 (subject to the approval of the electors of the municipality), for prohibiting the sale by retail of spirituous liquors in any inn or other house of public entertainment, the decisions under the old acts must not be followed without close examination. It is presumed that Municipal Councils, though empowered to regulate houses licensed, &c., have not now, more than formerly (where there are License Inspectors) authority by by-law to appoint the persons who are to receive licenses for the sale of spirituous liquors. (*In re Coyne and the Municipal Council of the Township of Dunwich*, 9 U. C. Q. B. 448.) But as the appointment of License Inspectors rests with the Municipal Councils (sec. 252), in the event of none being appointed it may be that the Councils may themselves determine the persons entitled to licenses. (Ib.) If a by-law passed under subsec. 4 of this clause ostensibly to limit the number of tavern or shop licenses be in reality a prohibitory measure, it would be illegal. (*In re Barclay and the Municipality of Darlington*, 12 U. C. Q. B. 86; *In re Graystock and the Municipality of Otonabee*, 12 U. C. Q. B. 458.) The power, under subsec. 5, to regulate houses or places licensed, does not, it is apprehended, enable a Municipal Corporation to declare that no spirituous liquors shall be sold to a certain class of people—for example, minors (Ib., but see sec. 275, subsec. 2); nor to prohibit the sale of spirituous liquors on certain days or at certain hours. (*Baker v. the Municipal Council of Paris*, 10 U. C. Q. B. 621.) No by-law for prohibiting the sale by retail of spirituous liquors can, it will be noticed, be finally passed until it has been duly approved "by the electors of the municipality, in the manner provided by this act." Of course a majority is all that is required; but this, it may be argued, must be a majority of the whole of the electors of the municipality, and not merely a majority of those present at the meeting called for the purpose of approving or disapproving of the by-law. *Sed qu?* (See *McAvoy and the Municipality of Sarnia*, 12 U. C. Q. B. 99.)

(w) Which is nine dollars, or one pound sixteen shillings sterling. (14 Geo. III. cap. 88, sec. 5.)

(x) On licenses of hotels, &c., in cities, there is a Provincial tax of twelve dollars; in towns, ten dollars; in places other than cities and towns, five dollars. (22 Vic. cap. 76, sec. 14.)

shall not be less than Twenty-five dollars, and every license so granted as aforesaid shall be held a license for the purpose of the said Imperial Act, and the sum paid for the License shall be applied to the use of the Corporation; (y) But no By-law by which a greater sum than one hundred dollars per annum is intended to be exacted for any Shop or Tavern License, or for leave to exercise any other calling, or to do any other thing for which a License may be required, (z) shall have force or effect, unless the By-law before the final passing thereof has been duly approved by the electors of the Municipality in the manner provided by this Act; (a) and the By-law shall not be varied or repealed unless the By-law for that purpose has been duly approved in like manner by the electors of the Municipality. (b)

Sum not to exceed £25, unless approved by public vote, &c.

SHOP AND TAVERN LICENSES. (c)

247.—No Tavern or Shop license shall be necessary for selling any liquors in the original packages in which the same have been received from the importer or manufacturer; (d) Provided such Packages contain respectively not less than five gallons, or one dozen bottles. (e)

No license required to sell in the original packages.

248.—Any person having a Tavern license may, without any additional license, sell liquors by retail to be consumed out of his house, in the same quantities as if to be consumed in the house. (f)

Tavern keepers may sell to be consumed out of the house.

(y) Excepting, it is presumed, the portion of it which constitutes the Provincial tax. (See sec. 256.)

(z) An ordinary shop needs no license. (Sec. 216.) The only shops required to be licensed are those which sell spirituous liquors, &c., of the description mentioned in sec. 245.

(a) A tax exceeding one hundred dollars might otherwise amount to a prohibition, and so in effect defeat the check of public vote made necessary by subsec. 6 of sec. 245.

(b) By which is meant that no by-law varying or repealing a by-law by which a greater sum than one hundred dollars per annum is exacted for any shop or tavern license shall be valid, unless duly approved by the electors of the municipality.

(c) The heading, "Shop and tavern licenses," preceding this section, belongs more properly to sec. 245, and should be struck out here.

(d) Whether manufactured within this Province or not.

(e) The tax is intended to be imposed upon those only who sell spirituous liquors, &c., by retail. To sell packages containing less than five gallons or one dozen bottles, is considered retailing.

(f) Notwithstanding the right to sell liquors to be consumed in the house of the vendor, the right to do so to be consumed outside of his

Tavern
keepers to
exhibit no-
tice of being
licensed.

249.—Every person who keeps a Tavern or other house or place of public entertainment, and has a Tavern License, shall exhibit over the door of such Tavern, House or place, in large letters, the words "Licensed to sell Wine, Beer and other Spirituous or Fermented Liquors," under a penalty in default of so doing of one dollar, recoverable with costs before any Justice of the Peace upon the oath of one credible witness; (*g*) one half of which penalty shall go to the Informer and the other half to the Municipality. (*h*)

Shop licenses
not to autho-
rize sale of
liquors to be
consumed in
the house.

250.—No licensed Shop-keeper, or other person having a Shop License, shall allow any Liquors sold by him and for the sale of which a license is required, to be consumed within his Shop, or within the building of which such Shop is a part, either by the purchaser thereof or by any other person not usually resident within such building. (*i*)

Penalties
recoverable
before two
Justices of
the Peace.

251.—All prosecutions for penalties incurred by persons vending Wine, Rum, Brandy or other Spirituous Liquors, Beer, Ale, Cider or other fermented or manufactured Liquors without License, (*j*) shall be recoverable with costs before any two or more Justices of the Peace having jurisdiction in the Municipality in which the offence is committed (*k*) upon the oath of one credible witness, one half of which penalty

house was at one time doubted. To remove the doubt stat. 2 Geo. IV. cap. 8, 1st ses., was passed, and this section is a reënactment of it.

(*g*) This section contains a duty, and a penalty for neglect of it. The duty is to exhibit over the door of every tavern, &c., licensed, the words mentioned; the penalty for neglect of it is one dollar.

(*h*) It is presumed that when not expressly excluded, an informer would be "a credible witness," within the meaning of the section. (See 16 Vic. cap. 19.)

(*i*) Taverns and shops each require licenses for the sale of spirituous liquors. The difference between them, independently of quantity, is, that while a tavern license confers a right to sell liquors to be consumed within the house, the shop license confers no such right.

(*j*) No distinction is made between spirituous liquors and fermented or manufactured liquors. Among the former are classed, as examples, wine, rum and brandy. Among the latter, beer, ale and cider.

(*k*) The penalties are recoverable before two justices of the peace, that is, two at least are required to try and convict. Notwithstanding, it is apprehended that one justice may receive the information, grant a summons or warrant to compel the attendance of witnesses, and do all other acts and matters that may be necessary preliminary to the hearing. (See 16 Vic. cap. 178, sec. 25.) It is a question, whether a police or stipendiary magistrate, who ordinarily is entitled to do whatever is required to be done by two or more justices, can act alone under this section. (Ib. ss. 11 and 28.)

shall go to the informer and the other half to the Municipality. (l)

INSPECTORS OF LICENSES.

252.—The Council of every Township, City, Town or Incorporated Village, may respectively pass By-laws :

1. For appointing annually one or more fit and proper persons, possessing the same property qualification as that required for the Councillors of the Municipality, to be inspectors of Shop and Tavern Licenses, who shall hold office during the current year, and any vacancy occurring during the year shall be filled by the Council, for the remainder of such year.

Appoint-
ment of In-
spectors of
Shop and
Tavern Li-
censes.

Term of
office.

2. For fixing and defining the duties, powers and privileges of the Inspectors so appointed; the remuneration they shall receive; and the security to be given by them for the efficient discharge of the duties of their office; such By-laws not being contrary to law. (m)

Duties and
remunera-
tion of.

Security.

253.—Any Inspector of Licenses may, in his discretion (but subject to any By-law of the Municipality,) endorse on any license permission to the person holding the license, to sell the liquors mentioned in his License at any place out of his house, or to remove from the house licensed to another house to be described in the endorsement and situate within the same Municipality, and such permission shall authorize the holder thereof to sell such liquors in the house mentioned in the endorsement during the unexpired portion of the term for which the License was granted, and upon the same terms and conditions; And any Bond or security which such holder may have given for any purpose relative to such license, shall apply to the house or place to which such removal has been authorized. (n)

Inspectors
may endorse
licenses to
authorize
sale of li-
quors else-
where than
in the house.

(l) See note *h* to sec. 249.

(m) This section is for the appointment of inspectors of licenses, and for the regulation of their duties when appointed. The Court has refused to interfere by mandamus to compel inspectors to examine a certain house fitted up by the applicant as a saloon, and to grant him the proper certificate if he should be found to have complied with the by-law of the Municipal Council in that behalf. (*In re Baxter v. Hesson et al*, 12 U. C. Q. B. 139.) No Inspector has any power under this section to act without his local jurisdiction.

(n) Any one having a tavern license may sell liquors by retail to be consumed out of his house, in the same quantities as if to be consumed in the house. (Sec. 248.) No one having a shop license is entitled thereunder to sell liquors to be consumed in his house. (Sec. 250.) In the event of it being desired by the licensee to sell temporarily at a place other than his house, or to change his house, the provisions of this section come to his relief.

254.—Every Council of a Township, City, Town, or Incorporated Village, (*o*) may also pass By-laws : (*p*)

BILLIARD TABLES.

Billiard
tables to be
licensed.

1. For licensing, regulating and governing all persons who, for hire or gain directly or indirectly, keep, or have in their possession, or on their premises, any Billiard Table, (*q*) or who keep or have a Billiard Table in a house or place of public entertainment or resort, whether such Billiard Table is used or not, (*r*) and for fixing the sum to be paid for a License so to have or keep such Billiard Table, and the time such License shall be in force; (*s*)

VICTUALLING HOUSES, &c.

Victualling
houses, num-
ber and re-
gulation of.

2. For limiting the number of and regulating Victualling Houses, ordinaries, and houses where fruit, oysters, clams, or victuals are sold to be eaten therein, and all other places for the reception, refreshment or entertainment of the public; (*t*) and

License and
fee for same.

3. For licensing the same when no other provision exists therefor, and for fixing the rates of such Licenses not exceeding Twenty dollars. (*u*)

LICENSES HOW LONG TO CONTINUE.

Licenses
when not re-
quired to be
renewed.

255.—In case any By-law respecting Licenses is repealed, altered or amended, no person shall be required to take out a new license or to pay any individual sum upon his license during the time for which the same has been granted to him. (*v*)

(*o*) The power does not extend to *County* Councils.

(*p*) See note *v* to sec. 186.

(*q*) Whether or not such person is the keeper of a tavern or house of public entertainment. (See *Church qui tam v. Richards*, 6 U.C. Q.B. 562.)

(*r*) If the billiard table is in a house or place of public entertainment it must be licensed, whether used or not.

(*s*) The section extends—1. To all persons who *for hire or gain* keep on their premises a billiard table; and 2. To all persons who keep a billiard table *in a house or place of public entertainment or resort*.

(*t*) The power to limit involves no power to *suppress*. (See note *v* to sec. 245.)

(*u*) This is a general power to license victualling houses, &c. It can only be exercised "when no other provision exists therefor." No license is to cost more than \$20.

(*v*) This section appears to extend to all licenses, whether to sell spirituous liquors, keep billiard tables or victualling houses, &c.

LICENSE FEES.

256.—All sums of money levied for licenses over and above the sum payable to the Province, by way of duty, shall belong to the Corporation of the Municipality in which they are levied. (*w*)

License fees to belong to Municipality.

DISORDERLY INNS.

257.—The Mayor or Police Magistrate of a Town or City, with any one Justice of the Peace having jurisdiction therein, or the Reeve of a Township or Village, with any one Justice of the Peace having jurisdiction in the Township or Village, upon complaint made on oath to them, or one of them respectively, of riotous or disorderly conduct in any Inn, Tavern, Ale or Beer house situate within their jurisdiction, may summon the keeper of the Inn, Tavern, Ale or Beer House, to answer the complaint, and may investigate the same summarily, and either dismiss the complaint with costs to be paid by the complainant, or convict the keeper of having a riotous or disorderly house, and annul his license, or suspend the same for not more than sixty days, with or without costs, as in their discretion may seem just. (*x*)

How keepers of disorderly inns to be proceeded against.

LAND MARKS AND BOUNDARIES.

258.—In case the Council of any Township, City, Town, or Incorporated Village, (*y*) adopts a resolution (*z*) on the application of one half of the resident landholders to be affected thereby, (*a*) that it is expedient to place durable monuments

Land marks and monuments to mark boundaries.

The object of it is to protect the existence of licenses *bona fide* issued under a by-law, notwithstanding the repeal, alteration or amendment of such by-law.

(*w*) For sums payable to the Provincial Government on licenses to sell spirituous liquors, &c., see note *x* to sec. 246.

(*x*) The powers given are :

1. Upon complaint, &c., to summon the keeper of the inn, &c.
2. To investigate the complaint summarily.
3. To dismiss the complaint with costs to be paid by complainant.
4. Or to convict the keeper of having a riotous or disorderly house.
5. To annul his license.
6. Or suspend the same for not more than 60 days.
7. Costs to be discretionary.

The forms of proceeding ought to be as nearly as may be like those directed by 16 Vic. cap. 178, as to summary convictions by justices.

(*y*) The right to make applications such as mentioned in this section was at first restricted to County Councils. (12 Vic. cap. 35, sec. 31.)

(*z*) *Resolution.*—See note *v*. to sec. 186.

(*a*) A resolution, if not founded on an application of one half of the resident landholders, &c., would be invalid.

12 V. c. 36.

at the front or rear of any concession or range or part thereof in the municipality, or at the front and rear angles of the lots therein, (b) the Council may apply to the Governor in the manner provided for in the thirty-first section of the Act passed in the twelfth year of Her Majesty's reign, chapter thirty-five, praying him to cause a survey of such concession or range, or such part thereof, to be made, and such monuments to be placed under the authority of the Commissioner of Crown Lands, (c) and the person or persons making the survey shall accordingly plant stone or other durable monuments at the front or at the rear of such concession or range, or such part thereof as aforesaid, or at the front and rear angles of every lot therein, (as the case may be,) and the limits of each lot so ascertained and marked, shall be the true limits thereof; (d) and the costs of the survey shall be defrayed in the manner prescribed by the said statute. (e)

Certain
Councils may
pass By-laws
for—

259.—The Council of every township, city, town or incorporated village (f) may also pass by-laws: (g)

PROVISION FOR ESTABLISHING BOUNDARIES.

Ascertaining
and marking
boundaries
of townships.

1. For procuring the necessary estimates, and making the proper application for ascertaining and establishing the boundary lines of the Municipality, according to law, in case the same has not been done; and for erecting and providing for

(b) Under the 12 Vic. cap. 31, the application may be to have any concession line not run in the original survey, or of which the survey has been obliterated, surveyed and marked by permanent stone boundaries. (Sec. 31.) Under 18 Vic. cap. 83, it may be to have placed stone or other durable monuments at the front, or at the rear, or at the front and rear angles of the lots, in any concession or range, or part of a concession or range. (Sec. 8.)

(c) The survey is to take place "under the direction and order of the Commissioner of Crown Lands." (12 Vic. cap. 35, sec. 31.)

(d) The duty of the surveyor employed is defined. If he ascertains the limits of each lot and mark the same, the limits so ascertained and marked are to be the true limits thereof.

(e) The cost is to be borne by the proprietors of the lands in each concession or part of concession interested. The Council may cause an estimate of the sum requisite to defray the expenses to be incurred to be laid before it, in order that the same may be levied on the landed proprietors, in proportion to the quantity or value of their respective lands. The expenses are to be paid by the Council to the surveyor, on the certificate and order of the Commissioner of Crown Lands. (12 Vic. cap. 35, sec. 31.)

(f) Neither County Councils nor Police Villages are included.

(g) The powers mentioned in sec. 258 are exercisable by resolution—here by by-law. (See note v to sec. 186.)

the preservation of the durable monuments required to be erected for evidencing the same. (*h*)

SCHOOLS.

2. For obtaining such real property as may be required for the erection of Common School houses thereon, and for other Common School purposes, and for the disposal thereof when no longer required; and for providing for the establishment and support of Common Schools according to law. (*i*)

Acquiring
land for
schools.

CEMETERIES.

3. For accepting or purchasing land for public cemeteries, as well within as without the Municipality, and for laying out, improving and managing the same; but no land shall be accepted or purchased for such purpose except by a by-law declaring in express terms that the land is appropriated for a public cemetery and for no other purpose; and thereupon such land, although without the Municipality, shall become part thereof, and shall cease to be part of the Municipality to which it formerly belonged; and such by-law shall not be repealed. (*j*)

For estab-
lishing ceme-
teries.

4. For selling or leasing portions of such land for the purpose of interment in family vaults or otherwise, and for declaring in the conveyance the terms on which such portions shall be held. (*k*)

For selling
portions
thereof on
limited
terms.

CRUELTY TO ANIMALS.

5. For preventing cruelty to animals, and for preventing the destruction of birds, the by-laws for these purposes not being inconsistent with any statute in that behalf. (*l*)

Preventing
cruelty to
animals.

(*h*) See sec. 258 and notes thereto.

(*i*) School Trustees of a township cannot, without reference to the freeholders, determine upon the site of a school house, and purchase it, and impose a rate to meet the expense. (*Orr v. Ramsey et al*, 12 U. C. Q. B. 377.)

(*j*) As a rule, the jurisdiction of every Council is confined to the Municipality the Council represents. (Sec. 186.) Here an authority beyond the limits of the Municipality is given. That authority is to accept or purchase land for public cemeteries, as well within as *without* the Municipality. The acceptance or purchase is to be by by-law, declaring in express terms that the land is appropriated for a public cemetery *and for no other purpose*. When this is done the land, although without the Municipality, becomes part thereof for all purposes of local government.

(*k*) There is no limitation as to the interest to be conveyed. When the Municipality is seized in fee simple, the conveyance may be made either for ever or for years. The power is to "sell" or "lease." The conveyance must be executed under the corporate seal of the Municipal Council.

(*l*) See note *x* to sec. 187.

DOGS.

- Tax on dogs. 6. For imposing a tax on the owners, possessors or harborers of dogs. (*m*)
- Killing dogs. 7. For killing dogs running at large, contrary to the by-laws. (*n*)

FENCES.

- Height of fences. 8. For settling the height and description of lawful fences. (*o*)

DIVISION FENCES.

- Of division fences. 9. For regulating the height, extent and description of lawful division fences; and for determining how the cost thereof shall be apportioned; and for directing that any amount so apportioned shall be recovered in the same manner as penalties not otherwise provided for may be recovered under this Act; provided that until the by-laws are made, the statute eighth Victoria, chapter twenty, shall continue applicable to the Municipality. (*p*)

WEEDS.

- Destruction of weeds. 10. For preventing the growth of weeds detrimental to good husbandry. (*q*)

(*m*) The common belief is that only the owners of dogs are taxable for them. It is here enacted that not only the owner, but the *possessor* or *harborer* may be taxed.

(*n*) The power is to authorize the *killing* of dogs. No provision is made as to the mode of killing. Poisoning as much as shooting is lawful. The authority to kill of course exists only when the dog is found running at large "contrary to the By-laws."

(*o*) The power is to *settle*, that is, to determine by some general regulation the height and description of fences, whether division fences or not.

(*p*) So much of sec. 1 of 8 Vic. cap. 20, as vested the appointment of fence viewers in the inhabitant freeholders and householders, at annual meetings, was repealed by 12 Vic. cap. 80, div. 2, No. 47; and by 12 Vic. cap. 81, sec. 31, subsec. 5, the appointment of fence viewers was vested in Township Councils. Under the act here annotated, the appointment may be made by the Council of a County, Township, City, Town, or Incorporated Village. (Sec. 242.) So much also of sec. 3 of 8 Vic. cap. 20 as limits the value of fences is repealed, and the amount is to be determined by the fence viewers. (18 Vic. cap. 137.)

(*q*) All weeds are more or less detrimental to good husbandry. It is well, however, to observe that this subsection is in terms confined to "weeds detrimental to good husbandry." The power is to prevent their growth.

EXHIBITIONS, SHOWS, ETC.

11. For preventing or regulating or licensing exhibitions of wax work, menageries, circus-riding and other such like shows usually exhibited by showmen, and for requiring the payment of license fees for authorizing the same, not exceeding one hundred dollars for every such license, and for imposing fines upon persons infringing such by-laws, and for levying the same by distress and sale of the goods and chattels of such showman or belonging to or used in such exhibition, whether owned by such showman or not, or for the imprisonment of such offenders for any term not exceeding one calendar month. (*r*)

Licensing
public shows

GRAVES.

12. For preventing the violation of cemeteries, graves, tombs, tombstones or vaults, where the dead are interred. (*s*)

Protecting
graves.

INJURIES TO PRIVATE PROPERTY AND NOTICES.

13. For preventing the injuring or destroying of trees planted or preserved for shade or ornament. (*t*)
14. For preventing the pulling down or defacing of sign-boards, and of printed or written notices. (*u*)

Ornamental
trees.

Signs.

(*r*) There is authority given as well to *prevent* as to regulate and license shows. The maximum license fee of \$100 is much larger than was required under the old law. The regulations, &c., will of course be by by-law. Persons infringing the by-laws are made liable to fine, and the fine is to be levied by distress and sale of the goods and chattels of the showman, or belonging to or used in the exhibition, *whether owned by the showman or not*. Power to imprison for any term not exceeding one calendar month is also given. But this power, it is apprehended, can only be exercised in default of payment of the fine and of goods and chattels liable to be levied for the same. (See sec. 242, subsec. 8.)

(*s*) Riotously and tumultuously to demolish, pull down or destroy, or to begin to demolish, pull down or destroy, any church, chapel or meeting house, is felony. (4 & 5 Vic. cap. 26, sec. 6.)

(*t*) If any person unlawfully and maliciously breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood respectively growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling house, the offender, &c., is guilty of misdemeanor. (4 & 5 Vic. cap. 26, sec. 19.) So if the offence is of a tree, &c., growing elsewhere than in any of the above situations, in case the amount of the injury done exceeds one pound. (Ib.)

(*u*) This is not a criminal offence, that is, not punishable as a misdemeanor.

GAS AND WATER.

Authorizing
gas and
water com-
panies to lay
down pipes,
&c.

15. For authorizing any corporate gas or water company to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the Council sees fit; (v) and

STOCK IN.

Taking stock
in gas and
water com-
panies.

16. For acquiring stock in, or lending money to, any such company; and for guaranteeing the payment of money borrowed by, or of debentures issued for money so borrowed by the company (w); provided the by-law is consented to by the electors, as hereinbefore provided. (x)

Head of Cor-
poration to
be a Director.

260.—The head of any Corporation holding stock in any such company to the amount of two thousand five hundred pounds shall be *ex officio* a director of the company in addition to the other directors thereof, and shall also be entitled to vote on such stock at any election of directors. (y)

PROVISIONS APPLICABLE TO TOWNSHIPS AND COUNTIES.

261.—The following section applies to townships and counties. (z)

Remunerat-
ing Council-
lors limited.

262.—The Council of every township and county may pass by-laws for paying the members of the Council for their attendance in Council, at a rate not exceeding one dollar and fifty cents per diem. (a)

(v) As to the incorporation of gas and water companies, see 16 Vic. cap. 173, and 18 Vic. cap. 94.

(w) *i. e.* Any corporate gas or water company.

(x) See sec. 192.

(y) This applies only to gas and water companies.

(z) See note y to sec. 241.

(a) Under a power to remunerate "all township officers," it was held that municipal councillors had no authority to remunerate themselves. (*In re Wright and the Municipal Council of the Township of Cornwall*, 9 U. C. Q. B. 442.) It was also made a question whether the Warden of a county could be deemed "an officer," so as to be entitled to receive remuneration. (*The Queen v. The District Council of the District of Gore*, 5 U. C. Q. B. 357.) The power of a Council to pass by-laws for paying its members, extends, under this section, to Township and County Councils only. The Councils of cities, towns, and incorporated villages, are as much as ever without the power. No Council, whether of county, city, town, township, or incorporated village, has power to pass a by-law to indemnify one of its members for the costs of a *quo warranto*, by which his election was set aside. (*In re Bell and the Municipality of the Township of Manvers*, 2 U. C. C. P. 507.)

PROVISIONS APPLICABLE TO TOWNSHIPS ONLY.

263.—The following sections, numbered 264 to 271, apply to townships only. (*b*)

TOWNSHIP WARDS.

264.—In case one hundred of the qualified electors of a township on the last revised assessment roll do, by petition in writing signed by them, apply to the Council of the township to divide the township into wards, if not already so divided, the Council shall, within one month thereafter, pass a by-law to give effect to the petition, and shall in the by-law recite the petition, and also the present section of this Act, and shall declare that the by-law is passed in compliance with the prayer of the petition, and shall therein define the boundaries of the several wards; and the by-law shall take effect on the first day of December next after one month from the date of its first publication in some newspaper published in the county or union of counties in which the township is situated, or by printed hand-bills posted in at least twenty public places in the township. (*c*)

Wards how to be formed upon petition of one hundred of the Electors.

265.—The Council shall so arrange the wards that they may be as compact, and contain as nearly an equal number of electors as may consist with the convenience of the inhabitants, the number of wards being five in all cases. (*d*)

Duty of Council in the formation of wards.
No. to be five.

266.—The Council of any Township may from time to time, without any such Petition, (*e*) pass By-laws to divide the Township into Wards, or, in case of a Township already divided into Wards, to alter or abolish such division. (*f*) And in case any such By-law, whether petitioned for or not, is passed with the concurrent votes of at least four members, it shall take effect on the first day of December next after one month from its first publication in some newspaper published in the County or Union of Counties in which the

To pass a By-law.

What it shall recite.

(*b*) See note *f* to sec. 241. This heading should, it is apprehended, include sec. 272, which appears to have been added after the introduction of the bill to the House of Assembly.

(*c*) It is well to observe that this section only applies to the division of townships into wards when "not already so divided," and not to the division anew of a township once divided into wards. (See *Mallough v. The Municipality of Ashfield*, 6 U. C. C. P. 158.) But under sec. 266, a Council may alter or abolish the divisions of a township already divided into wards.

(*d*) Neither *more* nor *less* than five.

(*e*) As is mentioned in sec. 264.

(*f*) Which cannot be done under sec. 264. (See note *c*, above.)

Township is situate, or by printed hand-bills posted in at least twenty public places in the Township. (g)

When the By-law shall take effect.

267.—In case the By-law, when not petitioned for as hereinbefore provided, (h) is passed with the concurrent votes of only three members, (i) it shall take effect on the first day of December next, after it has been approved by a majority of the Electors of the Township who shall vote thereon, at a special vote to be taken for that purpose, (j) under the following regulations :

Publication of By-law.

1. The Reeve of the Township shall, within ten days after the passing of the By-law, (k) cause the same to be published for one month in some newspaper within the County or Union of Counties within which the Township is situate, or by posting printed copies thereof in hand-bill form in at least twenty public places in the Township, (l) and shall also at the same time and in connection therewith, and in like manner, publish a notice of the time when, and place or places where the By-law will be submitted to a vote of the Electors of the Township. (m)

And notice of its submission to Electors.

Vote of Electors thereon.

2. Such vote shall not be taken in less than one month after the first publication of the By-law, nor shall it be at a later period than the next annual Municipal Election, (n) and if not taken at the annual Municipal Election, it shall be taken in like manner and at the place or places where the last

(g) It would seem that the by-law, to be effectual under this section, must receive the votes "of at least four members." It is not, when so passed, to take effect on 1st December next after its passing, but 1st December next *after one month* from its first publication.

(h) Sec. 264.

(i) And not four, as mentioned in sec. 266.

(j) When there is a petition of 100 qualified electors, &c., praying for the by-law, there is no special requirement as to the number of votes necessary. (Sec. 264.) When there is no petition, and there is a vote of at least four members in favor of the by-law, no appeal to the electors is necessary. (Sec. 266.) But when there is no petition, and a vote of only three members, an appeal to the electors under this section is requisite.

(k) As to computation of time, see note r to sec. 98.

(l) The publication may be in either of two modes. 1. For one month in some newspaper published within the county, &c.; or, 2. by posting printed copies of the by-law, in hand-bill form, in at least 20 public places in the Township.

(m) Which is necessary, no matter in what form the by-law is published.

(n) *Qu.* Provided the next municipal election do not take place in less than one month from the first publication?

annual Municipal Election was held, and by the Returning Officer or Officers who conducted such last annual Election ; (o) and in case of the death or incapacity of any such Returning Officer, another shall be appointed for that purpose by the Reeve ; (p)

3 The Reeve of the Township shall cause a certified copy of the By-law to be delivered to the Returning Officer of the Township, or of each Ward or Electoral Division thereof, (as the case may be) before the time appointed for taking such vote ; (q)

Copies of By-law to Returning Officer.

4. Where the By-law is for a division into Wards, or for an alteration of an existing division, the Returning Officer shall, at the commencement of the time appointed for taking the vote and during its continuance, cause fair copies of the By-law to be kept for public inspection in four conspicuous places about the place where the poll is held : (r)

When the By-law is for division into Wards.

5. The Returning Officer shall insert appropriate columns in the Poll-Books, headed :

Form of Poll Books.

- " For the division into Wards," and
- " Against the division into Wards ;" or
- " For the alteration of the division into Wards," and
- " Against the alteration of the division into Wards ; or
- " For the abolishing of Wards," and
- " Against the abolishing of Wards ;"

And shall, in such columns, while the Poll for the Election of Councillors is open, receive and record the Votes of Electors tendered for and against the By-law ; (s)

6. The Returning Officer or Returning Officers shall, within three days after such vote has been taken, (t) return the Poll-Books properly certified to the Reeve of the Township, who shall within one week thereafter examine the returns of the votes for and against the By-law, and give public notice of the result. (u)

Certified Poll Books to be returned to the Reeve.

(o) See sec. 81 *et seq.*

(p) This is different from the course pointed out under like circumstances in the case of a general election. (Sec. 94.)

(q) This appears to be a duty imperative on the Reeve.

(r) There is nothing said here as to the *abolition* of Wards. See sec. 266.

(s) The fifth and sixth columns (" For the abolition of Wards, &c") are inapplicable, unless they aid the construction of subsec. No. 4, so as to make it include by-laws for the abolition of Wards. (See preceding note.)

(t) As to computation of time, see note r to sec. 98.

(u) The duty of the Returning Officer is, within the time limited,

ELECTORAL DIVISIONS.

Electoral
Divisions in
townships
not divided
into Wards.

268.—Whenever a Township is not divided into Wards the Council may from time to time pass By-laws for dividing the Township into two or more convenient electoral divisions for establishing polling places therein and for appointing Returning Officers therefor, and may from time to time repeal or vary the same. (*v*)

POOR.

By-laws for
the relief of
the poor,
when and
how they
may be pass-
ed.

269.—Every Township Council may also make By-laws for raising money by a rate to be assessed equally on the whole rateable property of the Township, for the support of the poor resident in the Township. (*w*)

OBSTRUCTIONS TO STREAMS AND WATERCOURSES.

By-laws for
preventing
obstruction
of streams,
&c.

270.—Every Township Council may also make By-laws for preventing the obstruction of streams, creeks and water-courses by trees, brushwood, timber or other materials, and for clearing way, (*x*) and removing such obstructions at the expense of the guilty parties or otherwise, and for levying the amount of such expense in the same manner as taxes are levied, and for imposing penalties on parties causing such obstructions. (*y*)

to return the poll-books properly certified to the Reeve. The duties of the Reeve are—1. Within one week thereafter to examine the returns, &c.; and 2. To give public notice of the result.

(*v*) Electoral Divisions in Townships are new. They may be created whenever the Township is not divided into Wards. They are to be created by the Council by by-law. They may be “two or more” in number, and not, like Wards, “five in all cases.” (Sec. 265.)

(*w*) This is taken from statute 16 Vic. cap. 181, sec. 9, No. 2, but is in its terms more general and in its language more briefly expressed. The clause is in its application restricted to Township Councils. (But see sec. 290, subsec. 11.)

(*x*) *Way*.—“Away” probably intended.

(*y*) The By-laws may be for the following purposes:

1. For preventing the obstruction of streams, &c.
2. For clearing away and removing such obstructions, at the expense of the guilty parties, or otherwise.
3. For levying the amount of such expense in the same manner as taxes are leviable.
4. For imposing penalties on parties causing such obstructions.

These powers in many respects resemble the provisions of 10 & 11 Vic. cap. 20, continued by 22 Vic. cap. 81; and see 3 Wm. IV. cap. 28, sec. 1; 2 Vic. cap. 16, secs. 1 & 4; 7 Vic. cap. 36; and 14 & 15 Vic. 123.

DRAINAGE IN TOWNSHIPS.

271.—In case a majority in number of the resident owners of the property in any part of a Township do petition the Council for the draining of the property (describing it), the Council may procure an examination to be made by a competent Engineer of the property proposed to be drained, and may procure plans and estimates to be made of the work by the Engineer; (z)

Drainage.

Plans and estimates.

272.—If the Council is of opinion that the draining of the locality described would greatly benefit the Township, the Council may pass a By-law: (a)

By-law.

1. For providing for the draining of the locality;

Its provisions.

2. For assessing and collecting from the proprietors of the several lands immediately benefited by the draining, so much of the cost thereof, and of procuring the examination, plans and estimates to be made, and of all other expenses incident to the work, as may not exceed the benefit the lands respectively derive from such draining, and in proportion, as nearly as may be, to the benefit to each of the proprietors therefrom; (b)

Assessment for expenses.

3. For regulating the time or times and manner in which the assessment is to be paid; (c)

Time of paying.

4. For ascertaining and determining, through the Engineer, what real property will be immediately benefited by the draining, and the proportions in which the assessment should be made on the various portions of the lands so benefited, and subject in every case to an appeal to the Court of Revision and the County Court Judge, in the same manner and on the same terms, as nearly as may be, as in the case of an ordinary assessment; (d)

Ascertaining property benefited.

(z) As to the powers of fence-viewers in this respect, see 8 Vic. cap. 20, sec. 12 *et seq.*

(a) When a majority in numbers of the resident owners, &c., petition for the draining, &c., the Council may procure an examination to be made by a competent engineer, &c., and may procure plans and estimates, &c. (sec. 271); and if of opinion that the draining would greatly benefit the township, may pass a by-law under the section here annotated.

(b) The by-law is not to be passed unless the Council should be of opinion that the draining would greatly benefit the township, and, notwithstanding, the proprietors of the land immediately benefited are to be assessed for the cost, &c.

(c) The *time or times* and *manner* in which the assessment is to be paid, may be regulated by the by-law. No limitation is here made as to either.

(d) See the Assessment Act, 16 Vic. cap. 182, sec. 26.

Publication
of By-laws.

5. But the By-law shall not be valid, unless, before the final passing thereof, the same is published once or oftener in every week, for three months, in some newspaper published in the Township, or if no newspaper is published therein, then in some newspaper published in the nearest Municipality in which a newspaper is published. (e)

PROVISIONS APPLICABLE TO COUNTIES, CITIES AND TOWNS.

What sec-
tions so to
apply.

273.—The following sections, numbered 274 and 275, apply to the following municipalities: 1, counties; 2, cities; 3, towns. (f)

INSPECTORS OF WEIGHTS AND MEASURES.

274.—The Council of every county, city and town, may pass by-laws:

Inspectors of
weights and
measures:
their powers.

1. For appointing Inspectors to regulate weights and measures (g) according to the lawful standard. (h)

2. For visiting all places wherein weights and measures,

(e) Though publication is made necessary, no vote of the electors is required. The petition of the landed proprietors, presented under sec. 271, is taken as sufficient evidence of the popular wants and popular will.

(f) See note f to sec. 241.

(g) The power to appoint Inspectors of Weights and Measures was at first vested in the magistrates in quarter sessions. (4 Geo. IV. cap. 16, sec. 4, 1 sess.) The Legislature afterwards assumed that the power was transferred to Municipal Councils (12 Vic. cap. 85, sec. 12), but in 1855 removed all doubt on the point by passing an act expressly giving the power to each county and city. (18 Vic. cap. 135, sec. 1.) By the act here annotated, the power is in addition conferred upon the Councils of towns.

(h) In 1823 the Legislature set apart the sum of £75 towards purchasing a complete set of weights and measures for Upper Canada, according to the standard of the Exchequer in England (4 Geo. IV. cap. 16, sec. 2, 1 sess.), which standard was directed to remain in the custody of the Secretary of the Province. (Ib.) Upon the application of the magistrates in quarter sessions assembled in any district, the Secretary, at the cost of the district, was bound to furnish to the district a true standard of weights and measures (Ib. sec. 3); these to be deposited with District Inspectors (Ib. sec. 4). Provision was afterwards made, allowing the Municipality of any city, town, or incorporated village appointing an Inspector of Weights and Measures, to adjust weights and measures for the use of such city, town, or incorporated village, by the standard weights and measures in the possession of the District or County Inspector. (12 Vic. cap. 85, sec. 12.) Incorporated villages are no longer in terms empowered to do so; for the section here annotated applies only to "counties, cities and towns."

steelyards, or weighing machines of any description, are used.

3. For seizing and destroying such as are not according to the standard.

4. For imposing and collecting penalties upon persons who are found in possession of unstamped or unjust weights, measures, steelyards, or other weighing machines. (*j*)

PUBLIC MORALS.

275.—The Council of every County, City and Town, (*k*) may also pass By-laws: (*l*)

By-laws for other purposes.

1. For enforcing the due observance of the Sabbath according to law; (*m*)

(*j*) Until provision to the contrary is made by the Municipal Councils authorized to do so, powers similar to those above mentioned are by statute given to Inspectors. (Sec. 4, Geo. IV. cap.16; 3 Vic. cap.17.)

(*k*) This, like the preceding section, seems to be as much applicable though not in terms applied to Incorporated Villages as to "Counties, Cities, and Towns." Incorporated Villages are not, as Municipalities, included in Counties. The omission was probably inadvertent.

(*l*) See note *v* to sec. 186.

(*m*) The following are unlawful on the Lord's day:

1. *Buying, selling or trading, &c.*—It is not lawful for any merchant, tradesman, artificer, mechanic, workman, laborer, or other person whatsoever, in Upper Canada, to sell or to expose to sale or to purchase any wares, merchandise, goods, chattels, or personal property, or any real estate whatsoever, on Sunday; nor to do or exercise any worldly labor, business, or work of their respective ordinary callings. (8 Vic. cap. 45, sec. 1; *The Queen v. Tinning*, 11 U. C. Q. B. 636; *Wilt v. Lai*, 7 U. C. Q. B. 535.) Conveying travellers or Her Majesty's mail by land or water, selling drugs and medicines, and such other works of necessity, and also works of charity, are excepted. (Ib.; *In re Hespeler*, 16 U. C. Q. B. 104.)

2. *Tippling, brawling, or using profane language.*—It is not lawful for any person to tipple, or to allow or permit tippling in any inn, tavern, grocery, or house of public entertainment, or to revel or to publicly exhibit himself or herself in a state of intoxication, or to brawl or use profane language in the public streets or open air, so as to create any riot or disturbance to Her Majesty's peaceable subjects. (Ib.)

3. *Horse racing and other sports or games.*—It is not lawful for any person to play at skittles, ball, foot ball, racket, or any other noisy game, or to gamble with dice or otherwise, or to run races on foot or on horseback, or in carriages, or in vehicles of any sort. (Ib.)

4. *Fishing, hunting, shooting, or other sports.*—It is not lawful for any person to go out fishing, or hunting, or shooting, or in quest of or to take, kill or destroy any deer or other game, or any wild animal, or any wild fowl, or bird, or fish, or to use any dog, gun, rifle, or other engine, or any fishing rod, net or trap, for the above mentioned

2. For preventing the sale or gift of intoxicating drink to a child, apprentice or servant, without the consent of a parent, master, or legal protector. (*n*)

3. For preventing the posting of indecent placards, writings or pictures, or the writing of indecent words, or the making of indecent pictures or drawings, on walls or fences in streets or public places; (*o*)

4. For preventing vice, drunkenness, profane swearing, obscene, blasphemous or grossly insulting language, and other immorality and indecency in streets, highways or public places; (*p*)

5. For suppressing tippling houses and houses of ill-fame; (*q*)

purpose, on the Lord's day, except in defence of his, her, or their property, from any wolf or other ravenous beast or bird of prey. (*Ib.*)

5. *Bathing*.—It is not lawful for any person to bathe in any exposed situation in any water within the limits of any incorporated city or town, nor within view of any place of public worship or private residence. (*Ib.*)

6. *Penalty*.—An offence in any of the foregoing particulars is punishable by summary conviction. (*Ib.* sec. 3.)

(*n*) The By-law may be passed to prevent the sale or gift of intoxicating drink to the classes mentioned, unless under the circumstances directed, that is, to a child, apprentice or servant, with the consent of the parent, master, or legal protector, and not otherwise. As to the general power to regulate, limit or prohibit the sale of spirituous liquors to people generally, see sec. 245.

(*o*) The things which may be prevented by by-law under this subsection are the following:

1. The posting of indecent placards, writings or pictures.
2. The writing of indecent words.
3. The making of indecent pictures or drawings.

A thing may be said to be "indecent" when offensive to modesty or delicacy.

(*p*) The offences here enumerated are classed "immorality and indecency." The power is to pass a By-law to prevent vice, drunkenness, &c., and other immorality and indecency in streets, highways or public places. Immorality or indecency in this sense may be defined as something unbecoming—not fit to be seen or heard—any action or behavior which is deemed a violation of modesty, or an offence to delicacy, as wanton actions, obscene language, and generally whatever shocks or tends to excite a blush in a spectator. (See Webster and Imperial Dictionary, "Indecency.")

(*q*) It is clearly agreed that keeping a bawdy house is a common nuisance, as it endangers the public peace by drawing together dissolute and debauched persons. As such, it is indictable. (Russell on Crimes, i. 322.)

6. For preventing or regulating horse racing ; (*r*)
7. For preventing or regulating and licensing exhibitions held or kept for hire or profit, bowling alleys, and other places of amusement ; (*s*)
8. For suppressing gambling houses, and for seizing and destroying faro banks, rouge et noir, roulette tables, and other devices for gambling found therein ; (*t*)
9. For restraining and punishing vagrants, mendicants and persons found drunk or disorderly in any street, highway or public place ; (*u*)
10. For preventing indecent public exposure of the person and other indecent exhibitions ; (*v*)
11. For preventing or regulating the bathing or washing the person in any public water near a public highway ; (*w*)

(*r*) The power is to *prevent* or *regulate* horse racing. Horse racing is not under all circumstances illegal. (Oliphant on Horses, 283.) No person is however permitted by the law to run a horse at a race unless it is his own, nor to enter more than one horse for the same "plate," upon pain of forfeiting the horses. (13 Geo. II. c. 19.) No party can recover a wager on a horse race that is illegal within the statute. (*Sheldon v. Law*, 3 U. C. O. S. 85.) The proprietor of a race course is not responsible for the "purse," unless upon clear proof of an express undertaking to that effect. (*Gates v. Tinning*, 3 U. C. Q. B. 295.) Nor has the winner a right to recover back his "entrance money" because the purse has not been paid over to him. (*Gates v. Tinning*, 3 U. C. Q. B. 295.)

(*s*) Townships and Incorporated Villages have power to pass By-laws to prevent or regulate circus riding and other shows (sec. 259, subsec. 11) ; though not empowered to pass by-laws under the clause here annotated.

(*t*) All common gaming houses are nuisances in the eye of the law, being detrimental to the public, as they promote cheating and other corrupt practices, and entice numbers of persons to idleness whose time might be otherwise employed for the good of the community. (1 Hawk, P. C. cap. 75, sec. 6.)

(*u*) The ancient statutes contain very severe regulations as to vagrants. (22 Hen. 8, cap. 12 ; 27 Hen. 8, cap. 25 ; 1 Edw. 6, cap. 3 ; 3 & 4 Ed. 6, cap. 16 ; 14 Eliz. cap. 5 ; 18 Eliz. cap. 3 ; 35 Eliz. cap. 7 ; 13 & 14 Car. 2, cap. 12, sec. 23 ; 12 Anne, st. 2, cap. 23 ; 13 Geo. 2, cap. 24 ; 17 Geo. 2, cap. 5.) The last mentioned act (17 Geo. 2, cap. 5) divides vagrants into three classes. 1. Idle and disorderly persons. 2. Rogues and vagabonds ; and 3. Incurrible rogues.

(*v*) In general, all open lewdness grossly scandalous is punishable by the common law. And it appears to be an established principle, that whatever openly outrages decency and is injurious to public morals is a misdemeanor. (Russell on Crimes, i. 326.)

(*w*) It has been held an indictable offence for a man to undress himself on the beach and to bathe in the sea near inhabited houses,

PROVISIONS APPLICABLE TO COUNTIES AND CITIES.

Extent of
section 276.**276.**—The following sections numbered from 277 to 280 to apply to the following Municipalities : (x)

1. Counties, and
2. Cities.

By-laws for
regulating—**277.**—The Council of every County and City (y) may respectively pass By-laws for the following purposes :

ENGINEERS—INSPECTORS.

Engineers,
and

1. For appointing, in addition to other officers, one or more Engineers, and also one or more Inspectors of the House of Industry, also one or more Surgeons of the Gaol, and other institutions under the charge of the Municipality, and for the removal of such officers; (z)

AUCTIONEERS.

Auctioneers.

2. For licensing, regulating and governing Auctioneers and other persons selling or putting up for sale goods, wares, merchandize or effects by public auction; and for fixing the sum to be paid for every such License, and the time it shall be in force; (a)

HAWKERS AND PEDLARS.

Hawkers
and pedlars.

3. For licensing, regulating and governing Hawkers or Petty Chapmen, and other persons carrying on petty trades,

from which he might have been distinctly seen, although the houses had been recently erected and until their erection it had been usual for men to bathe in greater numbers at the place in question. (*Rex v. Crunden*, 2 Camp. 89.) The judge ruled that whatever place becomes the abode of civilized men, there the laws of decency must be enforced. (Ib.)

(x) In these references there is an error—"280" should be "279."

(y) This section ought to have been extended to Towns separated under sec. 26. (See sec. 291.) *Qu.* Is it intended that the jurisdiction of the County Councils should extend to Towns and Incorporated Villages, as well as to Townships? It is certainly not so expressed. The part of sec. 79 (81 in act as passed) of the original bill which exempted them, was struck out in committee.

(z) The officers whose appointment is authorized are :

1. Engineers.
2. Inspectors of Houses of Industry.
3. Surgeons of Gaols.

The latter, until lately, were appointed by the magistrates in Quarter Sessions.

(a) From the earliest times, a duty as a source of revenue has been placed on auctioneers. The license is generally an annual one.

who have not become householders or permanent residents in the County or City, or who go from place to place, or to other men's houses, on foot, or with any animal bearing or drawing any goods, wares or merchandize for sale, or in or with any boat, vessel or other craft, or otherwise, carrying goods, wares or merchandize for sale, and for fixing the sum to be paid for a license for exercising such calling within the County or City, and the time the license shall be in force; and for providing the Township Clerks with licenses in this and the previous section mentioned, for sale to parties applying for the same in the Township, under such regulations as may be prescribed in such By-law; but no duty shall be imposed for hawking or peddling any goods, wares or merchandize, the growth, produce or manufacture of this province, not being liquors mentioned in the 245th section of this Act; (b)

FERRIES.

4. For regulating Ferries between any two places in the Municipality; and establishing the rates of ferriage to be taken thereon; but no such By-law as to Ferries shall have effect until assented to by the Governor in Council. (c)

278.—Until the Council of the County or City pass a By-law regulating such Ferries, and in the cases of ferries not between two places in the same Municipality, the Governor by Order in Council may from time to time regulate such ferries respectively and establish the rates to be taken thereon, in accordance with the Statutes in force relating to Ferries. (d)

279.—The Council of every County and City may pass By-laws for the following purposes: (e)

LANDS FOR GRAMMAR SCHOOLS.

1. For obtaining in such part of the County, or of any City within the County, as the wants of the people may most require, the real property requisite for erecting County grammar school houses thereon, and for other grammar school purposes, and for preserving, improving and repairing such school houses, and for disposing of such property when no longer required. (f)

(b) In England, statutes were passed at an early period for the regulation of hawkers, pedlars, and petty chapmen (8 & 9 Will. 3, cap. 25; 9 & 10 Will. 3, cap. 25; 29 Geo. 3, cap. 26); and in Upper Canada as early as 1816. (56 Geo. 3, cap. 34.)

(c) *Ferries.*—See sec. 217 and notes thereto.

(d) See sec. 217 and notes thereto.

(e) *By-laws.*—See note *v* to sec. 186.

(f) In 1807, an appropriation was made by the Legislature for the

Ferries.

Where there is no By-law.

By-laws may be made by Cities and Counties, for—

Purchase of lands for Grammar Schools.

AIDING GRAMMAR SCHOOLS.

Aiding such schools.

2. For making provision in aid of such Grammar Schools as may be deemed expedient; (*g*)

PUPILS COMPETING FOR UNIVERSITY PRIZES.

Grammar school pupils competing for University prizes.

3. For making a permanent provision for defraying the expense of the attendance at the University of Toronto, and at the Upper Canada College and Royal Grammar Schools there, of such of the Pupils of the Public Grammar Schools of the County as are unable to incur the expense but are desirous of, and, in the opinion of the respective Masters of such Grammar Schools, possess competent attainments for competing for any Scholarship, Exhibition or other similar Prize, offered by such University or College; (*h*)

Attendance at grammar schools.

4. For making similar provision for the attendance at any County Grammar School, for like purposes, of Pupils of the Common Schools of the County; (*i*)

support of a public school "in each and every district" of Upper Canada, to be kept in places named. (47 Geo. 3, cap. 6.) This act was repealed, in 1853, by an act intitled "An Act to amend the law relating to Grammar Schools." (16 Vic. cap. 186, sec. 17.) The latter enacted that the Grammar Schools then existing should be continued at the places where they were respectively held, but authorized the Board of Trustees of each such school to change the places. (Ib. sec. 15.) As to Grammar Schools established after 14th June, 1853, the places may be changed by the County Council of the County within which the school is established. (Ib.) The Trustees are also authorized in certain cases to surrender to the Crown lands unsuitable for school sites, with a view to other sites. (18 Vic. cap. 121.) The Legislature, in 1858, made a grant for the establishment of a model grammar school. (18 Vic. cap. 132.) The applicability of the section under consideration to Cities is very doubtful; for Cities are deemed Counties for municipal and for certain judicial purposes, and no other. (Sec. 339.)

(*g*) The Council of each County, City, Township, Town, or Incorporated Village, is authorized by 16 Vic. cap. 186, from time to time to levy and collect, by assessment, such sum or sums of money as it may deem expedient to purchase the site or sites, or to rent, build, repair, furnish, warm and keep in order a grammar school, house or houses, for providing the salary of the teacher or teachers, and all other necessary expenses of such county grammar school or schools. (Sec. 2.)

(*h*) The provision to be made may be a permanent one. But it must not be for attendance at any other institution than that of the University of Toronto and Upper Canada College, or Normal Grammar School.

(*i*) None are entitled to receive the benefit of the provision unless those who are themselves unable to incur the expense.

ENDOWING FELLOWSHIPS.

5. For endowing such Fellowships, Scholarships or Exhibitions, and other similar Prizes, in the University of Toronto, and in the Upper Canada College and Royal Grammar School there, for competition among the Pupils of the Public Grammar Schools of the County, as the Council deems expedient for the encouragement of learning amongst the youth thereof. (*j*)

Endowing Fellowships.

PROVISIONS APPLICABLE TO COUNTIES ONLY.

280.—The following sections numbered from 281 to 285 apply to Counties only: (*k*)

Extent of sections 281 to 285.

SEPARATE IMPROVEMENTS BY UNITED COUNTIES.

281.—The Councils of United Counties may make appropriations and raise funds, to enable either County separately to carry on such improvements as may be required by the inhabitants thereof. (*l*)

One of united counties may make improvements with union funds.

282.—Whenever any such measure is brought under the notice of the Council of any United Counties, none but the Reeves and Deputy Reeves of the County to be affected by the measure shall vote; except in case of an equality of votes for or against the measure, when the Warden, whether a Reeve or Deputy Reeve of any portion of the County to be affected by the measure or not, shall have the casting vote. (*m*)

Reeves of the county interested only to vote for.

283.—In all other respects, all the provisions of this Act, giving such privileges and making provision for the payment of the amounts appropriated, whether to be borrowed upon a loan or to be raised by direct taxation, shall be adhered to. (*n*)

Provisions of this Act for repayment to apply.

(*j*) Fellowships, Scholarships, or Exhibitions, endowed under this clause, are to be for competition among the pupils of the public Grammar Schools of the County.

(*k*) See note *y* to sec. 241.

(*l*) Such appropriations, &c., to be subject to all formalities and regulations or appropriations made for the use of the United Counties. (Sec. 283.)

(*m*) The improvements must be such as are required by the inhabitants of one of the United Counties. The desire for them may be signified to the Council of the United Counties, by the Reeves, &c., of the County to be affected. When brought before the notice of the Council, composed as it will be of Reeves and Deputy Reeves of the United Counties, none except the Reeves and Deputy Reeves of the County to be affected by the measure are to vote. Provision is also made for the casting vote of the Warden, whether a Reeve from such county or not.

(*n*) See sec. 221 *et seq.*

Treasurer to pay over moneys, without deduction.

In such cases the property of the county interested is alone to be assessed.

284.—The Treasurer of the United Counties shall pay over all sums so raised and paid into his hands by the several Collectors without any deduction for per centage. (*o*)

285.—The property to be assessed for the purpose contemplated in the four last preceding sections of this Act, shall be the same as the property assessed for any other County purpose, except that any sum to be raised for the purposes of one County only, or for the payment of any debt contracted for the purposes of one County only, shall be assessed and levied solely upon property assessed in that County, and not upon property in any other County united with it. (*p*)

PROVISIONS APPLICABLE TO CITIES, TOWNS AND INCORPORATED VILLAGES.

Extent of section 287.

286.—The following section applies to the following Municipalities: (*q*)

1. Cities,
2. Towns, and
3. Incorporated Villages.

By-laws may be made—

287.—The Council of every city, town and incorporated village (*r*), may respectively pass by-laws for the following purposes: (*s*)

HARBOURS, DOCKS, ETC.

For the cleanliness of streets, &c.

1. For regulating or preventing the encumbering, injuring, or fouling, by animals, vehicles, vessels or other means, of any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water. (*t*)

For removal of door steps, &c.

2. For directing the removal of door-steps, porches, railings or other erections or obstructions, projecting into or over any wharf, dock, slip, drain, sewer, bay, harbour, river or water, or

(*o*) It is not said to whom the Treasurer is “to pay over;” but it is apprehended only to persons directly entitled to receive, such as contractors, &c., for work done.

(*p*) This is for the purposes intended, to effect as it were a separation of Counties United *pro tanto* without severing the Union.

(*q*) See note *y* to sec. 241.

(*r*) Counties are not named, and of course are not empowered to pass by-laws for the purposes mentioned.

(*s*) *By-laws.*—See note *v* to sec. 186.

(*t*) The clause is restricted to *public* wharves, docks, &c.; for *private* wharves, &c., owned by private companies, are in such matters generally regulated by the owners. In 1853, an act was passed which provides for the formation of companies for the construction of piers, wharves, dry docks, &c. (16 Vic. cap. 124.)

the banks or shores thereof, at the expense of the proprietor or occupant of the property, connected with which such projections are found. (u)

3. For making, opening, preserving, altering, improving Wharves, docks, &c.
and maintaining public wharves, docks, slips, shores, bays, harbours, rivers or waters, and the banks thereof. (v)

4. For regulating harbours, for preventing the filling up or encumbering thereof; for erecting and maintaining the necessary beacons, and for erecting and renting wharves, piers and docks therein, and also floating elevators, derricks, cranes and other machinery suitable for loading, discharging or repairing vessels; for regulating the vessels, crafts and rafts arriving in any harbour; and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a Harbour Master. (w)

WATER.

5. For establishing, protecting and regulating public wells, reservoirs and other conveniences for the supply of water; and for making reasonable charges for the use thereof; and for preventing the wasting and fouling of public water. (x)

MARKETS.

6. For establishing markets. (y) Markets:

7. For regulating all markets established and to be established. The places, however, already established as markets in such municipality, shall continue to be markets, and shall retain all the privileges thereof until otherwise directed by competent authority; and all market reservations or appropriations heretofore made in any such municipality, shall continue to be vested in the Corporation thereof. (z)

(u) The power is to do more than to cause the projections to be removed; for it is to direct the removal, "at the expense of the proprietor or occupant of the property connected with which such projections are found."

(v) Here as above the power is restricted to *public* wharves, &c.

(w) There is a general act for the formation of companies for the construction of harbors. (16 Vic. cap. 124.) The harbor of Toronto is under the control of Commissioners. (13 & 14 Vic. cap. 80.)

(x) There is also a general act providing for the formation of Incorporated Joint Stock Companies for supplying Cities, Towns and Villages with water. (16 Vic. cap. 173.)

(y) The *establishment* of public marts or places of buying and selling, such as markets and fairs, with the tolls thereunto belonging, is enumerated by Blackstone as one of the Royal Prerogatives. In Upper Canada it is frequently exercised as to fairs.

(z) The power is to regulate *all* markets established, apparently

- Regulating vending in streets. 8. For preventing or regulating the sale by retail in the public streets, of any meat, vegetables, fruit or beverages. (a)
- Vending in open air. 9. For preventing or regulating the buying and selling of articles or animals exposed for sale or marketed in the open air.
- Sale of Butcher's meat. 10. For regulating the place and manner of selling and weighing butcher's meat, fish, hay, straw, fodder, wood and lumber.
- Preventing forestalling. 11. For preventing the forestalling, regrating or monopoly of market grains, meats, fish, fruits, roots and vegetables.
- Regulating Hucksters. 12. For preventing and regulating the purchase of such things by hucksters or runners living within the municipality, or within one mile from the outer limits thereof.
- Weighing, &c. 13. For regulating the mode of measuring or weighing (as the case may be) of lime, shingles, laths, cordwood, and coal, and other fuel.
- Penalties for light weight. 14. For imposing penalties for light weight, or short count or short measurement, in any thing marketed.
- Regulating vehicles used in market vending. 15. For regulating all vehicles, vessels and other things in which any thing is exposed for sale or marketed in any street or public place, and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.
- Assize of Bread. 16. For regulating the assize of bread, and preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by-law.
- Tainted provisions. 17. For seizing and destroying all tainted and unwholesome meat, poultry, fish, or other articles of food.
- Rent of market stalls. 18. For selling, after six hours' notice, butcher's meat distrained for rent of market-stalls.

NUISANCES. (b)

- Bathing. 19. For preventing or regulating the bathing or washing the person in any public water in or near the municipality.

including those established by the Crown as well as those established by municipal authority.

(a) This and the ten following clauses (9 to 18) confer power to make purely local regulations, some of which, such as the assize of bread (16) have been from the earliest time necessary, and from time to time made by some or other local authority.

(b) A nuisance has been described as any thing that works hurt, inconvenience, or damage. And nuisances are of two kinds; public or common nuisances, which affect people generally, and private nuisances, which may be defined as any thing done to the hurt of the lands, tenements or hereditaments of another. (1 Russ. Crimes, 317.)

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|---|-------------------------|
| 20. For preventing and abating public nuisances. | Abatement of nuisances. |
| 21. For preventing or regulating the construction of privy vaults. | Privy vaults. |
| 22. For causing vacant lots to be properly enclosed. | Vacant lots. |
| 23. For preventing or regulating the erection or continuance of slaughter houses, gas works, tanneries, distilleries, or other manufactories or trades which may prove to be nuisances. | Slaughter houses. |
| 24. For preventing the ringing of bells, blowing of horns, shouting and other unusual noises in streets and public places, | Tumultuous noises. |
| 25. For preventing or regulating the firing of guns or other fire arms; and the firing or setting off of fire-balls, squibs, crackers or fireworks, and for preventing <i>charivaries</i> and other like disturbances of the peace. | Firing guns, &c. |
| 26. For preventing immoderate riding or driving in highways or streets; for preventing the leading, riding or driving of horses or cattle upon side-walks or other places not proper therefor. | Furious driving. |
| 27. For preventing persons in streets or public places from importuning others to travel in or employ any vessel or vehicle, or go to any tavern or boarding-house, or for regulating persons so employed. | Importuning travelers. |

PUBLIC HEALTH. (c)

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|---|----------------|
| 28. For providing for the health of the municipality, and against the spreading of contagious or infectious diseases. | Public health. |
|---|----------------|

INTERMENTS. (d)

- | | |
|---|---------------------|
| 29. For regulating the interment of the dead, and for preventing the same taking place within the municipality. | Interments. |
| 30. For directing the keeping and returning of bills of mortality, and for imposing penalties on persons guilty of default in doing so. | Bills of mortality. |

Private nuisances are generally remedied by civil action. Public nuisances, then, are offences against the public order and economical regimen of the State, being either the doing of a thing to the annoyance of all the Queen's subjects, or the neglecting to do a thing which the common good requires. But the annoyance or neglect must be of a real and substantial nature, and the fears of mankind, though they may be reasonable, will not create a nuisance. Offensive trades or manufactures, of which examples are given in the following subsections, may be public nuisances.

(c) See sec. 244 and notes thereto.

(d) The Council of every City, Town and Township, is under certain restrictions authorized to accept or purchase land for public

LICENSES. (e)

Licensing
cabs, &c.

31. For regulating and licensing the owners of livery stables and of horses, cabs, carriages, omnibuses and other vehicles used for hire; for establishing the rates of fare to be taken by the owners or drivers; and for enforcing payment thereof.

GUNPOWDER. (f)

Gunpowder,
care of.

32. For regulating the keeping or transporting of gunpowder or other combustible or dangerous materials; for regulating and providing for the support, by fees, of magazines for storing gunpowder belonging to private parties; for compelling persons to store therein; for acquiring land, as well within as without the municipality, for the purpose of erecting powder magazines, and for selling and conveying such land when no longer required therefor.

FIRES.

Fire compa-
nies, &c.

33. For appointing Fire Wardens, Fire Engineers and Firemen, and promoting, establishing and regulating fire-companies, hook-and-ladder companies, and property-saving companies:

Medals and
rewards to,
&c.

34. For providing medals or rewards for persons who distinguish themselves at fires; and for granting pecuniary aid or otherwise assisting the widows and orphans of persons who are killed by accidents at such fires:

Fires in
stables, &c.

35. For preventing or regulating the use of fire or lights in stables, cabinet makers' shops, carpenters' shops, and combustible places;

Dangerous
manufacto-
ries.

36. For preventing or regulating the carrying on of manufactories or trades dangerous in causing or promoting fire;

Stoves, chim-
nies, &c.

37. For preventing and for removing, or regulating the construction of any chimney, flue, fire place, stove, oven, boiler or other apparatus or thing which may be dangerous in causing or promoting fire;

cemeteries, as well within as without the Municipality. (Sec. 259, subsec. 3.)

(e) The raising of revenue by the license of livery stables, horses, cabs, &c., is an old system. It has existed for many years.

(f) Erecting powder mills or keeping gunpowder magazines near a town has been held to be a nuisance at common law, punishable by indictment or information. (*The King v. Taylor*, 2 Str. 1167.) The English Act 12 Geo. III. cap. 61, reduces into one act and repeals all former acts relative to the making, keeping and carrying of gunpowder.

38. For regulating the construction of chimnies as to dimensions and otherwise; and for enforcing the proper cleaning of the same; Size and cleaning chimnies, &c.
39. For regulating the mode of removal and safe keeping of ashes; Ashes.
40. For regulating and enforcing the erection of party walls; Party walls.
41. For compelling the owners and occupants of houses to have scuttles in the roofs thereof, and stairs or ladders leading to the same; Ladders to houses.
42. For causing buildings and yards to be put in other respects into safe condition, to guard against fire or other dangerous risk or accident; Buildings and yards, condition of.
43. For requiring the inhabitants to provide so many fire buckets in such manner and time as may be prescribed; and for regulating the examination of them; and the use of them at fires; Fire buckets.
44. For authorizing appointed officers to enter at all reasonable times upon any property subject to the regulations of the Council, in order to ascertain whether such regulations are obeyed, or to enforce or carry into effect the same. Inspection of premises.
45. For making regulations for suppressing fires, and for pulling down or demolishing adjacent houses or other erections, when necessary to prevent the spreading of fire. Suppression of fires.
46. For regulating the conduct and enforcing the assistance of the inhabitants present at fires, and for the preservation of property at fires. Enforcing assistance at fires.

PROVISIONS APPLICABLE TO CITIES AND TOWNS.

288.—The following sections, numbered from 289 to 291, apply to the following municipalities (*h*): 1. Cities; 2, Towns. Extent of sections 289 to 291.

CORONERS.

289.—One or more Coroners shall be appointed for every incorporated city and town. (*i*) Appointment of.

(*h*) See note *y* to sec. 241.

(*i*) It is not said by whom the appointment is to be made, but it is understood by the Executive. The office of Coroner is of equal antiquity with that of Sheriff. (Mirror, cap. 1, sec. 3.) The authority of a Coroner is judicial and ministerial. *Judicial* where one comes to a violent death, or a house or building is destroyed by fire in a city, town or village, in which cases he is to take inquest. (4 Inst. 371; 20 Vic. cap. 36.) *Ministerial* where the Coroner executes the Queen's writs on exception to the Sheriff, as by his being a party to a suit, or of kin to either of the parties, &c. (1b.) Coroners of *Counties* are however commonly called upon to act in a ministerial capacity.

INTELLIGENCE OFFICES. (*j*)

290.—The Council of every city and town may respectively pass by-laws:

Licensing
Intelligence
offices.

1. For licensing suitable persons to keep Intelligence Offices for registering the names and residences of and giving information to or procuring servants for employers in want of domestics or labourers, and for registering the names and residences of and giving information to or procuring employment for domestic servants and other labourers desiring employment, and for fixing the fees to be received by the keepers of such offices.

Regulation
of.

2. For the regulation of such Intelligence Offices.

Duration of
license.

3. For limiting the duration of, or revoking any such license.

Prohibition
of, without
license.

4. For prohibiting the opening or keeping any such Intelligence Office within the municipality without license.

Fees for.

5. For fixing the fee to be paid for such license, not exceeding one dollar for one year.

WOODEN BUILDINGS. (*k*)

Wooden
buildings.

6. For regulating the erection of buildings and preventing the erection of wooden buildings and wooden fences in specified parts of the city or town.

POLICE. (*l*)

A police.

7. For establishing, regulating and maintaining a police, but subject to the other provisions of this Act on that head.

(*j*) The powers given are to license intelligence offices, to regulate them, to limit the duration of the licences, to prohibit the opening of any such office without license, to fix the fee for a license,—each of which has a distinct meaning.

(*k*) As wooden structures are more combustible than stone or brick, the power to regulate the erection of them in Cities and Towns is conferred. For the word “specified” the word “populous” is probably intended; otherwise the expression might as well have been “any part” as “specified parts.” The word “populous” was used in the bill as introduced to the Assembly. It is not certain where or by whom it was changed.

(*l*) The word “police” is generally applied to the internal regulations of Cities and Towns, whereby the individuals of any City or Town, like members of a well governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood, and good manners, and to be decent, industrious and inoffensive in their respective situations (See 4 Bla. Com. cap. 13); but the word, as here used, has a still more restricted meaning, for it is intended to apply to those paid men who in every City and Town are appointed to execute police laws, and who in many respects correspond with

INDUSTRIAL FARM—EXHIBITION. (*m*)

8. For acquiring any estate in landed property within or without the city or town for an industrial farm, or for a public park, garden or walk, or for a place for exhibitions, and for the disposal thereof when no longer required for the purpose; and for accepting and taking charge of landed property, within or without the city or town, dedicated for a public park, garden or walk for the use of the inhabitants of the city or town. Industrial farm.

9. For the erection thereon of buildings and fences for the purposes of the farm, park, garden, walk or place for exhibition, as the Council deems necessary. Buildings thereon.

10. For the management of the farm, park, garden, walk, or place for exhibitions, and buildings. Managing the same.

CHARITY. (*n*)

11. For establishing and regulating within the city or town, or on the industrial farm or ground held for public exhibitions, one or more almshouses or houses of refuge for the relief of the destitute, and for granting out-of-door relief to the resident poor, and also for aiding charitable institutions within the city or town. Almshouses.

SNOW, ICE AND DIRT. (*o*)

12. For compelling persons to remove the snow, ice and dirt from the roofs of the premises owned or occupied by them, Removing snow, &c.

Constables of Rural Municipalities. The powers given to Cities and Towns are—1. To establish. 2. To regulate; and 3. To maintain a police.

(*m*) The jurisdiction of a Municipal Council is in general local, that is, confined to the Municipality which it represents. For some purposes, the jurisdiction extends beyond the locality. The acquirement of land for a cemetery is one such purpose. (Sec. 258, subsec. 3.) Land for an industrial farm, &c., is another. Power is given—1. To acquire any estate, &c., for a farm, &c. 2. To erect buildings thereon, &c. 3. To manage the same.

(*n*) Every Township Council may also make by-laws for raising money for the support of the poor resident in the Township. (Sec. 269.) The poor taken notice of by the English law, which is a complete system, are—1st. Poor by impotency; as the aged or decrepid, fatherless or motherless, poor under sickness, and persons who are idiots, lunatics, lame, blind, &c. 2nd. Poor by casualty; such as able-bodied persons decayed or ruined by unavoidable misfortunes, or otherwise out of employment and unable to procure employment. 3rd. Poor by prodigality and debauchery; also those called thriftless poor, as idle, slothful persons.

(*o*) The power is to compel "persons" to remove snow, ice and dirt, &c. This means persons resident within the jurisdiction of the Municipal Council of the City or Town; for over persons resident without such jurisdiction the Council can have no authority.

and also to remove the same from the sidewalk, street or alley in front of such premises, and for removing the same at the expense of the owner or occupant in case of his default.

NUMBERING HOUSES AND LOTS. (*p*)

Numbering
houses, &c.

13. For numbering the houses and lots along the streets of the municipality, and for affixing the numbers to the houses, buildings or other erections along the streets, and for charging the owner or occupant of each house or lot with the expense incident to the numbering of the same.

Record of
streets and
numbers.

14. For keeping (and every such Council is hereby required to make and keep) a record of the streets and numbers of the houses and lots numbered thereon respectively, and entering thereon (and every such Council is hereby required to enter thereon) a division of the streets with boundaries and distances, for public inspection.

DRAINAGE. (*q*)

Levels of cel-
lars.

15. For ascertaining and compelling owners, tenants and occupants to furnish the Council with the levels of the cellars heretofore dug or constructed, or which may hereafter be dug or constructed, along the streets of the municipality, such levels to be with reference to a line fixed by the by-laws.

Deposit of
plan of
buildings.

16. For compelling to be deposited with an officer, to be named in the by-law, before commencing the erection of any building, a ground or block plan of such building, with the levels of the cellars and basements thereof with reference to a line fixed by the by-law.

Cellars,
privies, &c.

17. For regulating the construction of cellars, sinks, water-closets, privies and privy-vaults, and the manner of draining the same.

Filling up
certain
places.

18. For compelling or regulating the filling up, draining, clearing, altering, relaying and repairing of any grounds, yards, vacant lots, cellars, private drains, sinks, cesspools and privies; and for assessing the owners or occupiers of such grounds, yards, or of the real estate on which the cellars, pri-

(*p*) In Cities and Towns, this is a very great convenience. It causes an expense which in amount is trifling and cheerfully borne.

(*q*) Drainage, as applied to Cities and Towns, is for sanitary purposes all important. An explanation of the principles of drainage cannot be expected to find a place in this work. A popular treatise on the subject, written by G. Drysdale Dempsey, civil engineer, and published by John Weale, London, England, is recommended to the Municipalities.

vate drains, sinks, cesspools and privies are situate, with the cost thereof if done by the Council on their default.

19. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes. Sewerage.

20. For charging all persons who own or occupy property which is drained into a common sewer, or which by any by-law of the Council is required to be drained into such sewer, with a reasonable rent for the use of the same; and for regulating the time or times and manner in which the same is to be paid. Charging property benefitted.

291.—The Council of a City or Town, (*r*) may also pass By-laws: (*s*)

1. For appointing any person to be the Corporation Surveyor, and the Board of Examiners of Provincial Land Surveyors for Upper Canada shall examine such person, and if he is found competent, shall grant to him, without the usual service, his certificate as a Deputy Provincial Surveyor, and his acts as such shall, in the Town or City, while he holds the office of Surveyor thereto, have the same effect as those of any other Deputy Provincial Surveyor; (*t*) Appointment of Corporation Surveyor.

GAS AND WATER.

2. For lighting the Municipality, and for this purpose performing any work, and placing any fixtures that are necessary on private property; (*u*) Lighting with gas.

3. For laying down Gas or Water pipes in any street and opening streets for the purpose; and for taking up or repairing such pipes, and for using every power and privilege given to any Gas or Water Company incorporated in the Municipality as if the same were specially given by this Act, subject however to the provisions herein contained as to the erection of Gas or Water Works and levying rates therefor; (*v*) Laying down gas and water pipes.

(*r*) Councils of counties, townships and incorporated villages are neither mentioned nor intended.

(*s*) *By-laws.*—See note *v* to sec. 186.

(*t*) The Board of Examiners is composed of the Commissioner of Crown Lands and eight other competent persons from time to time appointed by the Governor-General, and meet at the city of Toronto. (14 & 15 Vic. cap. 4, sec. 2.) Although “the usual service” is not required, the Board has no power to grant the certificate unless satisfied of the ability of the applicant, and of the sufficiency of his surveying instruments. (12 Vic. cap. 35, sec. 4.) As to the form of application, &c., see 14 & 15 Vic. cap. 4, sec. 2 *et seq.*, and 18 Vic. cap. 83.

(*u*) It is necessary for Municipal Councils to be very cautious when interfering with private property. An excess of authority may render them liable as trespassers.

(*v*) This clause is new. It may be made a question how far the

Gas and Water Works.

4. For constructing Gas and Water Works, and for levying an annual special rate to defray the yearly interest of the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within such time as shall not exceed thirty years, nor be less than five years; (*w*)

Estimate to be published and a Poll held on the By-law.

5. But no By-law under the last sub-section shall be passed, Firstly, until estimates of the intended expenditure have been published for one month, (*x*) and notice of the time appointed for taking a Poll of the Electors on the proposed By-law has been published for two months, (*y*) and a copy of the proposed By-law at length as the same may be ultimately passed, (*z*) and a notice of the day appointed for finally considering the same in Council, have been published for three months in some newspaper in the Municipality; or if no newspaper is published therein, then in some newspaper in the County in which the Municipality is situate; (*a*)

Proceedings in taking public vote.

Nor, Secondly, until at a Poll, held in the same manner and at the same places, and continued for the same time as at elections for Councillors, a majority of the Electors, voting at the Poll, vote in favor of the By-law; (*b*)

Poll to be held, and majority must be in favour.

Nor, Thirdly, unless the By-law is thereafter passed at the special meeting mentioned in the published notice; (*c*)

By-law to be passed only at a special meeting, &c. If the by-law is rejected.

6. If the proposed By-law is rejected at such Poll, no other By-law for the same purpose shall be submitted to the electors during the current year; (*d*)

Municipal Council of a city has, under it, the power to interfere with the privileges of incorporated companies in cities existing at the time of the passing of the act. See 16 Vic. cap. 173, "for the formation of Incorporated Joint Stock Companies for supplying Cities, Towns and Villages with Gas and Water." Clause 7, of this section, prescribes the mode of proceeding in such a case.

(*w*) This is the old law, with some alterations.

(*x*) *Month*—i. e. calendar month. (12 Vic. cap. 10, sec. 5, subsec. 11.)

(*y*) Same.

(*z*) *Ultimately passed*.—See note *h* to section 224.

(*a*) The only municipalities intended are of course those described in the beginning of the section, viz., cities and towns.

(*b*) See sec. 81 *et seq.*

(*c*) The by-law is to be passed at the special meeting mentioned in the notice, &c.; that is, it shall not be lawful in the notice to specify one day of meeting, and to pass the by-law at another.

(*d*) The municipal year begins in January, and so far corresponds with the calendar year. If a by-law is rejected at any time in one year, it cannot be again submitted until the year following.

7. In case there is any Gas or Water Company incorporated for the Municipality, the Council shall not levy any Gas or Water rate until such Council has by By-law fixed a price to offer for the Works or Stock of the Company; nor until thirty days have elapsed after notice of such price has been communicated to the Company without the Company's having accepted the same, or having, under the provisions of this Act as to Arbitrators, named and given notice of an Arbitrator to determine the price, nor until the price accepted or awarded has been paid, or has been secured to the satisfaction of the Company; (e)

If there is a Gas or Water Company for the Municipality.

8. The Council of a City or Town may also pass By-laws,—For providing for the inspection of Gas-metres; (f)

Inspectors of Gas-metres.

9. For providing for the appointment of three Commissioners for entering into contracts for the construction of Gas and Water-works,—for superintending the construction of the same,—for managing the works when completed,—and for providing for the Election of the said Commissioners by the Electors from time to time and at such periods, and for such terms as the Council may appoint by the By-law authorizing the Election. (g)

Commissioners for erection of gas or water works.

PROVISIONS APPLICABLE TO POLICE VILLAGES ONLY.

292.—The following sections numbered from 293 to 299 apply to Police Villages only: (h)

Extent of sections 293 to 299.

INSPECTING TRUSTEE.

293.—The Trustees of every Police Village, or any two of such Trustees shall, by a writing under their hands to be filed with the Clerk of the Township, or one of the Townships

Appointment of Inspecting Trustee.

(e) The course of proceeding indicated appears to be the following: 1. If there is a gas or water company incorporated in the municipality, the Council of the municipality, before levying a gas or water rate, is by by-law to fix a price to be offered for the works or stock of the company. 2. The company, within thirty days after communication of a notice of the price, is either to accept the same or to proceed to arbitration, pursuant to sec. 336 of this act. 3. If the sum is either accepted, or a different sum is awarded, the municipality, before levying the rate, is required to pay or secure that sum.

(f) This and the following are new and important clauses.

(g) The electors are, it is presumed, such only as are entitled to vote at the ordinary municipal election in the municipality. (See sec. 75 *et seq.*)

(h) See note y to sec. 241.

in which the village is situate, appoint one of their number to be Inspecting Trustee. (*i*)

Vacancies.

294.—In case of any vacancy in the office of a Police Trustee by death or otherwise, the remaining Trustee or Trustees shall, by writing to be filed with such Clerk as afore-said, appoint a Trustee or Trustees to supply the vacancy. (*j*)

NEGLECT OF DUTY BY TRUSTEES.

Penalty for breach of duty.

295.—Any Police Trustee who wilfully neglects or omits to prosecute an offender at the request of any resident householder, of the village (*k*) offering to adduce proof of an offence against the regulations of Police herein established, (*l*) or who wilfully neglects or omits to fulfil any other duty imposed on him by this Act, shall incur a penalty of five dollars. (*m*)

Limitation of prosecutions for.

296.—The penalties prescribed by the preceding section, or by that for the establishment of regulations of Police, shall be sued for within ten days after the offence has been committed or has ceased, and not subsequently. (*n*)

TRUSTEES TO SUE FOR PENALTIES.

Who to sue for penalties.

And before whom.

Conviction and levy of penalty.

297.—The inspecting Trustee, or in his absence, or when he is the party complained of, one of the other Trustees, shall sue for all penalties incurred under the Regulations of Police herein established, (*o*) before a Justice of the Peace having jurisdiction in the village and residing therein, or within five miles thereof; or if there be no such, then before any Justice of the Peace having jurisdiction in the village; (*p*) and the Justice shall hear and determine such complaint in a summary manner, and may convict the offender, upon the oath or affirmation of a credible witness, and shall cause the penalty to be

(*i*) The Inspecting Trustee in a Police Village holds a position similar to that of Reeve in a Township. In every Police Village there are three Trustees. (Sec. 68.) The election of Inspecting Trustee is to be by these Trustees, or by any two of them.

(*j*) The police regulations of every Police Village are enforced through Police Trustees. (Sec. 7.)

(*k*) As to what constitutes residence see note *r* to sec. 75.

(*l*) "*Herein mentioned, &c.*" See sec. 299.

(*m*) The penalty must be sued for within ten days after offence committed. (Sec. 296.)

(*n*) *Within ten days after, &c.* As to computation of time, see note *r* to sec. 98.

(*o*) See sec. 299.

(*p*) Two parties are here described; first, the party to sue, and, secondly, the party before whom the suit is to be prosecuted.

levied by distress and sale of the goods of the offender, and to be paid over to the path-master or path-masters of the division or divisions to which the village belongs, or to such of the said path-masters as the Trustees may direct; (g) and such path-master or path-masters shall apply the penalty to the repair and improvement of the streets and lanes of the village, under the direction of the Trustees. (r)

PUBLIC HEALTH.

298.—The Trustees of every Police Village shall be Health Officers within the Police Village, under the Act of the Parliament of Upper Canada, passed in the fifth year of the reign of His late Majesty, King William the Fourth, intituled, *An Act to promote the Public Health and to guard* Trustees to be Health Officers. *against infectious diseases in this Province*, and under any other Act that may be passed for the like purpose. (s) 5 W. 4, c. 10

POLICE REGULATIONS.

299.—The Trustees of every Police village shall execute and enforce therein the regulations following: (t) Regulations.

FIRE. (u)

1. Every proprietor of a house more than one story high, shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of one dollar for every omission; and a further penalty of two dollars for every week such omission continues; Fires, Ladders, &c.

(g) The proceedings had better, as much as possible, conform to the Summary Convictions Act, 16 Vic. cap. 178.

(r) The Path Master, or some Path Master if more than one, is to receive the penalty. When he receives it, it is his duty to apply it to the repair and improvement of the streets, &c.

(s) See sec. 244 and notes thereto.

(t) A Police Village is not a "Municipality" within the meaning of this act. (Sec. 402, subsec. 1.) Nor are the Police Trustees, like the members of Municipal Councils, a body corporate. (Sec. 2.) A Police Village is in every respect of much less importance than a Municipality, such as a County, City, Town, or Incorporated Village. Hence it is that regulations such as Municipal Councils may themselves ordain are here ordained by the Legislature for Police Trustees. Little is left in their power or to their discretion.

(u) It ought to be an object of every householder, where a number of houses are collected together, to provide against fire. It is for this reason that the Legislature, in the clauses following, is so particular as to details.

- Fire buckets.** 2. Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of one dollar for each bucket deficient;
- Furnaces, &c.** 3. No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding two dollars for non-compliance;
- Stove pipes, &c.** 4. No person shall pass a stove-pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the wood work nearest thereto; and the pipe of every stove shall be inserted into a chimney; and there shall be at least ten inches in the clear between any stove and any lathed partition or wood work, under a penalty of two dollars;
- Lights in stables, &c.** 5. No person shall enter a mill, barn, outhouse or stable, with a lighted candle or lamp, unless well enclosed in a lantern, nor with a lighted pipe or cigar, or with fire not properly secured, under a penalty of one dollar;
- Chimnies.** 6. No person shall light or have a fire in a wooden house or outhouse unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of one dollar;
- Securing fire carried through streets, &c.** 7. No person shall carry fire or cause fire to be carried into or through any Street, Lane, Yard, Garden or other Place, without having such fire confined in some copper, iron or tin vessel, under a penalty of one dollar for the first offence, and of two dollars for every subsequent offence;
- Fires in streets.** 8. No person shall light a fire in a street, lane or public place, under a penalty of one dollar;
- Hay, straw, &c.** 9. No person shall place Hay, Straw or Fodder, or cause the same to be placed, in a dwelling house, under a penalty of one dollar for the first offence, and of five dollars for every week the Hay, Straw or Fodder is suffered to remain there;
- Ashes, &c.** 10. No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders, in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of one dollar;
- Lime.** 11. No person shall place or deposit any quick or unslaked lime in contact with any wood of a house, outhouse or other building, under a penalty of one dollar, and a further penalty

of two dollars a day until the lime has been removed, or secured to the satisfaction of the inspecting trustee, so as to prevent any danger of fire;

12. No person shall erect a furnace for making charcoal of wood, under a penalty of five dollars; Charcoal furnaces.

GUNPOWDER. (v)

13. No person shall keep or have Gunpowder for sale except in boxes of copper, tin or lead, under a penalty of five dollars for the first offence, and ten dollars for every subsequent offence; Gunpowder.

14. No person shall sell Gunpowder, or permit Gunpowder to be sold, in his house, storehouse or shop, outhouse or other building, at night, under a penalty of ten dollars for the first offence, and of twenty dollars for every subsequent offence; Gunpowder.

NUISANCES. (w)

15. No person shall throw or cause to be thrown any filth, or rubbish into a street, lane or public place, under a penalty of one dollar, and a further penalty of two dollars for every week he neglects to remove the same after being notified to do so by the Inspecting Trustee, or some other person authorized by him. Certain nuisances prohibited.

ROADS, BRIDGES, DRAINS, WATERCOURSES. (ww)

WHAT CONSTITUTE HIGHWAYS.

300.—All allowances for roads made by the Crown Surveyors in any Town, Township or place already laid out, or hereafter laid out; and also all roads laid out by virtue of any Act of the Parliament of Upper Canada, or any roads whereon the public money has been expended for opening the same, or whereon the Statute Labour hath been usually performed, or any roads passing through the Indian Lands, shall be deemed common and public highways, unless where such roads have What shall constitute highways.

(v) *Gunpowder.*—See note *p* to subsec. 32 of sec. 287, p. 156.

(w) *Nuisances.*—See note *b* to subsec. 19 of same section, p. 154.

(ww) The powers of Municipal Councils respecting roads and bridges, under the former statutes, were contained in detached sections. They were difficult to trace, differing as they did in relation to the different Municipalities. The framers of this act therefore have apparently thought it better to collect together all the law of highways, so far as regards the jurisdiction of Municipal Councils, and which will be found in the following sections. A methodical arrangement, so far as the diversity of the provisions admits, has been attempted.

been already altered, or may hereafter be altered according to Law. (x)

HIGHWAYS VESTED IN THE CROWN.

Highways,
&c., vested in
the Crown.

301.—Unless otherwise provided for, the soil and freehold of every highway or road altered, amended or laid out according to law, shall be vested in her Majesty, her heirs and successors. (y)

The following is an outline of the arrangement:

1. Highways generally. (Sec. 300.)
2. Restrictions upon the powers of Councils. (Sec. 303.)
3. Formalities to be observed in passing by-laws. (Sec. 308.)
4. Compensation to owners of lands taken for roads, &c. (Sec. 310.)
5. Title to lands taken for roads, &c. (Sec. 311.)
6. Joint jurisdiction of two or more Councils. (Sec. 314.)
7. Statute labor. (Sec. 317.)
8. General powers of all Municipalities. (Secs. 317-320.)
9. Townships, Cities, Towns, and Incorporated Villages. (Secs. 321-323.)
10. Cities, Towns, and Incorporated Villages. (Sec. 324.)
11. Counties exclusively. (Sec. 325.)
12. Townships exclusively. (Sec. 329.)
13. Railways. (Sec. 332.)

Each Municipal Council should, as occasion requires, give careful attention to those sections which relate to its powers and duties with respect to roads, &c.

(x) Anciently there were but four highways in England, which were *public* and *common* highways to all the King's subjects, and through which they might pass without any toll. (*James v. Johnston*, 1 Mod. 231.) All others are supposed to have been made through the grounds of private persons, who had a right to prescribe tolls. (Ib.) Highways in the modern sense may however exist notwithstanding the imposition of tolls, and are often constituted such by Acts of Parliament.

The following are made highways under the operation of this section:

1. All allowances for roads made by the Crown Surveyor, &c.
2. All roads laid out by virtue of any Act of Parliament of Upper Canada.
3. All roads whereon the public money has been expended for opening the same.
4. All roads on which statute labor hath been usually performed.
5. All roads passing through the Indian lands (which is very indefinite).
6. The exception is where such roads have been already altered or may hereafter be altered according to law.

(y) The *soil* and *freehold* of every highway or road altered, amended or laid out, according to law, *unless otherwise provided for*, is vested in her Majesty, her heirs and successors; and it is provided by sec. 322, that every public road, &c., or other highway in a City, Township, Town, or Incorporated Village, shall be *vested* in the Municipality, subject to any rights in the soil which the individuals who laid out such road, &c., reserved, &c.

THE MUNICIPAL MANUAL.

JURISDICTION OF MUNICIPALITIES.

302.—Subject to the exceptions and provisions herein-after contained, every Municipal Council shall have the jurisdiction over the original allowances for Roads, Highways and Bridges within the Municipality. (z)

Jurisdiction
of Municipal
Council.

JURISDICTION RESTRICTED.

PROVINCIAL ROADS UNDER BOARD OF WORKS.

303.—No Council shall interfere with any Public Road or Bridge vested as a Provincial Work in Her Majesty or in any Public Department or Board, and the Governor shall by order in Council have the same powers as to such Road and Bridge as are by this Act conferred on Municipal Councils with respect to other Roads and Bridges; (a) but the Governor may by Proclamation declare any Public Road or Bridge under the control of the Commissioners of Public Works, to be no longer under their control, and in that case after a day named in the Proclamation the Road or Bridge shall cease to be under the control of the Commissioners, and no tolls shall thereafter be levied thereon by them, and the Road or Bridge shall thenceforth be controlled and kept in repair by the Council of the Municipality. (b)

Roads under
Board of
Works not to
be inter-
fered with.

ROADS ON ORDNANCE LANDS.

304.—No Council shall pass any By-law (1) for stopping up or altering the direction or alignment of any street, lane or thoroughfare made or laid out by Her Majesty's Ordnance, or the Principal Secretary of State in whom the Ordnance Estates are vested under the Statute of this Province, passed in the nineteenth year of Her Majesty's Reign chapter forty-

Nor with
Ordnance
roads, lands,
&c.

(z) Original allowances for roads, &c., are generally allowances laid out in the first or original survey of a township, &c. (See rep. stat. 50 Geo. 3, cap. 1, sec. 12.) Over all these *jurisdiction* is given to the Municipal Council of the Municipality in which situate. The object is to give express authority to the Municipal Councils as respects the government of highways within their limits. (See sec. 322.)

(a) Among the exceptions to public roads, &c., being under the jurisdiction of Municipal Councils, are public roads, &c., *vested as provincial works* in her Majesty, or in any public department or board, such as the Department of Public Works. (See 9 Vic. cap. 37, subsecs. 7, 12, 13 and 23, and 10 & 11 Vic. cap. 24.) Over these the Governor General of the Province is to have the same powers as are by this act given to Municipal Councils with respect to *other* roads, &c.

(b) This provides for the transfer of a provincial road to the Municipal Council of the Municipality in which it is situate. So far as the section does so it is taken from statute 13 & 14 Vic. cap. 15, sec. 2.

Unless sanctioned by the Chief Engineer, Officer, &c.

five, (2) or for opening any such communication through land held by the Secretary of State for Her Majesty's Ordnance, or (3) interfering with any bridge, wharf, dock, quay or other work constructed by Her Majesty's Ordnance, or the Secretary of State, or (4) interfering with any land reserved for Military purposes or with the integrity of the public defences, without a written consent signed by the Principal Officer of Her Majesty's Ordnance acting in Canada under the authority of such Secretary of State, certified under the hand of the Commander of the Forces in Canada to be such Principal Officer and to be acting under such authority, and a By-law for any of the purposes aforesaid shall be void unless it recites such consent, authority and certificate. (c)

WHAT ROADS NOT TO BE CLOSED.

Council not to close roads required by individuals.

305.—No Council shall close up any public road or highway, whether an original allowance or a road opened by the Quarter Sessions, or any Municipal Council, or otherwise legally established, whereby any person shall be excluded from ingress and egress to and from his lands or place of residence over such road, but all such roads shall remain open for the use of the person who requires the same. (d)

NOT TO ENCROACH UPON HOUSES, &c.

Nor to encroach upon houses, &c.

306.—No Council shall authorize an encroachment on any dwelling house, barn, stable, out-house, orchard, garden, yard or pleasure ground, without the written consent of the owner. (e)

WIDTH OF ROADS.

Width of roads.

307.—No Council shall lay out any road or lane more than ninety nor less than thirty feet in width; but any road, when altered, may be of the same width as formerly. (f)

(c) The object of this section is to protect roads, &c., laid out through Ordnance Lands. The Ordnance Transfer Act of 1856 divides Ordnance Lands into two schedules; the first schedule comprising all lands vested in one of her Majesty's principal Secretaries of State, and the second such lands as are reinvested in the Crown for the public uses of the province. (19 Vic. cap. 45, sec. 1.)

(d) Of this section the design is not so much the good of the public as of an individual proprietor of land as one of the public. No road, &c., is to be closed up, "*whereby* any person will be excluded from ingress and egress to and from his lands, &c."

(e) This section is also for the protection of private rights as opposed to public convenience. Unless there be a written consent from the owner, no Council is to authorize an encroachment on any dwelling house, &c.

(f) A by-law opening a new road should on the face of it show the

NOTICE TO BE GIVEN OF BY-LAWS INTENDED TO AFFECT PUBLIC ROADS.

308.—No Council shall pass a By-law, for stopping up, altering, widening, diverting or selling any original allowance for road, or for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane; (g)

What notice to be given of By-laws intended to affect public roads.

1. Until written or printed notices of the intended By-law have been posted up one calendar Month previously in six of the most public places in the immediate neighbourhood of such original allowance for road, street, or other highway, road, street or lane; (h)

Publication.

width of the road (*In re Smith and the Municipal Council of Euphemia*, 8 U. C. Q. B. 222), and should, it seems, when it authorizes a road through a man's land, show where it enters and what course it takes. (*Dennis v. Hughes et al*, 8 U. C. Q. B. 444.) All by-laws authorizing new roads should, either by reciting the whole description of the road given in the survey or report, or by describing it fully, whether such by-laws refer to the report or not, make it plain to every one that sees the by-laws where the road is to run and how wide it is to be, and should not leave the information to be gleaned from documents not referred to in the by-laws as annexed and not in fact annexed. (*In re Brown and the Municipal Council of the County of York*, 8 U. C. Q. B. 596; *McIntyre v. the Municipal Council of Bosanquet*, 11 U. C. Q. B. 460.) The same strictness does not of course apply to a by-law closing up an old road. (*Fisher v. the Municipal Council of Vaughan*, 10 U. C. Q. B. 492.)

(g) It ought to be observed that notice is requisite, not only before a Council shall pass a by-law "for stopping up, altering, widening, diverting or selling any original allowance," but "for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane." Under the old acts it was held that no notice was necessary before passing a by-law to open a new road; the clause then in force only applying to by-laws "for stopping up, altering, widening or diverting a road, &c." (*Dennis v. Hughes et al*, 8 U. C. Q. B. 444.) It seems that a road is not made, &c., when a by-law authorizing the making of it is passed, but only that it is authorized to be made, &c., by the proper officer acting in a reasonable manner. (Ib.) As to stopping up, &c., it is not necessary for the Council to do more than close or abolish the highway by their enactment. They are not required to fence it in, or to place any physical obstruction in the way of persons passing. They only put an end to the right of using it, and consequently to all obligation on the part of any person to respect it as a highway. The conveying away the former line of road, where they have authority to do so, is a distinct matter altogether and not necessary to the extinction of the right of way. (*Johnston v. Reeser et al*, 10 U. C. Q. B. 101.)

(h) To a declaration in trespass *quare clausum fregit* the defendant filed several pleas, justifying the trespass as done by him as servant of the Municipal Council of the United Counties of Wentworth and

The same.

2. And to be published weekly for at least four successive weeks in some newspaper (if any there be) published in the Municipality; or if there be no such newspaper, then in a newspaper published in some neighbouring Municipality;

Parties to be heard.

3. Nor until the Council has heard, in person or by Counsel or Attorney, any one whose land might be prejudicially affected thereby, and who petitions to be so heard;

Clerk to give the notice.

4. And the Clerk shall give such notices, at the request of the applicant for the By-law, upon payment of the reasonable expenses attendant on such notices.

IN DISPUTES RESPECTING ROADS—WHO MAY SWEAR WITNESSES, &c.

Power to administer oath in disputes respecting boundaries.

309.—In case of disputes in any Municipality concerning roads, allowances for roads, side lines, boundaries or concessions, within the cognizance of and in the course of investigation before a Municipal Council, the Head of the Council may administer an oath or affirmation to any party or witness examined upon the matters in dispute. (*i*)

COMPENSATION FOR LANDS TAKEN.

Owners of lands taken, to be compensated.

310.—Every Council shall make to the owners of real property entered upon, taken or used by the Corporation in the exercise of its powers in respect to roads, streets and other public communications, or to drains and common sewers, due compensation for any damages necessarily resulting from the exercise of such powers. beyond any advantage which the claimant may derive from the contemplated work; (*j*) and

Halton, and by their command, in pursuance of a by-law passed on 31st January, 1850, in accordance with the provisions and requirements of the Municipal Act of 1849, which came into force on 1st January, 1850, held on demurrer that it was a valid objection to the several pleas, that they did not show a calendar month's notice given previous to the passing of the by-law; that on the contrary they imported on the face of them that it could not have been given, because the by-law was passed within a month after the Municipal Act of 1849 came into operation. (*Laferty v. Stock*, 3 U. C. C. P. 1.)

(*i*) There is some obscurity in this section. It is not intended to give Municipal Councils jurisdiction to *try* and *determine* disputed boundaries, &c., but only to institute such an investigation respecting such roads or lines, &c., as are material to the exercise of the jurisdiction which the Councils possess. The section is founded on sec. 126 of the old Act 12 Vic. cap. 81, which was not in the original bill, as introduced in 1849, but was inserted before the bill became law, by some person who had no clear idea of what he was doing.

(*j*) Where a statute authorizes acts interfering with private rights of property, all such acts are to be taken strictly; and the persons justifying under the statute must show themselves to be right in every thing done by them. (*Dennis v. Hughes et al*, 8 U.C. Q.B. 444.) The

any claim for such compensation, if not mutually agreed upon shall be determined by arbitration under this Act. (k)

TITLES TO LAND OF INFANTS, &C., HOW ACQUIRED.

311.—In case of real property which a Council has authority under this Act, to enter upon, take or use without the owner's consent, Corporations, Tenants in tail or for life, Guardians, Committees and Trustees, shall, on behalf of themselves, their Successors and Heirs respectively, and on behalf of those they represent whether infants, issue unborn, lunatics, idiots, married women or others, have power to act, as well in reference to any arbitration, notice and action under this Act, as in contracting for and conveying to the Council any such real property, or in agreeing as to the amount of damages arising from the exercise by the Council of any power in respect thereof. (l) In case there is no such person who can

power of a Municipal Council referring proprietors to private parties for compensation, to say the least of it, is very doubtful. (Ib.; *Lafferty v. Stock*, 3 U. C. C. P. 1.) But a by-law closing up an old road and directing that the parties applying to have the road enclosed should pay the expenses, is not necessarily bad. (*Fisher v. the Municipal Council of Vaughan*, 10 U. C. Q. B. 492.) A party who accepts a sum of money in satisfaction of his right to land taken for a road, &c., is not allowed afterwards to contend that the road was illegally laid out, by reason of want of notice or other formality. (*Magrath v. the Municipality of the Township of Brock*, 13 U. C. Q. B. 629.) How far the owner of land upon a highway would have a claim to compensation, under this section, for any thing done by a Municipal Council in the proper exercise of its powers within the line of the highway, as originally laid out, is a question. It has been decided under the old statute 16 Vic. cap. 181, sec. 33, that as a general rule a claim to compensation for the consequences of improvement made in the proper line of the highway, could not be recognized as just or reasonable; because it was said the proprietor of land, taking possession of his lot, having a street running past it, is called upon to consider that, for the sake of the public, the street will in progress of time be made as level and as dry as it may be, either by raising the ground where it is low or by reducing hills which are inconveniently steep; and that having due regard to the make of the ground in its natural state, he has an opportunity of foreseeing such alterations in the level of the street as a regard to public convenience will lead to, and that he should be governed by that in placing his buildings so as to suit such probable alterations. (*Regina v. the Municipal Council of Perth*, 14 U. C. Q. B. 156.)

(k) See sec. 336.

(l) Where land is required for a public purpose, it is a very common provision that persons not otherwise entitled to convey an estate in fee simple shall, for the public purposes specified, have power to do so. (See 14 & 15 Vic. cap. 51, sec. 11.) The power of the persons described in this section to do so is confined to land which the Muni-

If there be
no party who
can convey.

so act in respect to such real property, or in case any person interested in respect to any such real property, is absent from this Province, or is unknown, or in case his residence is unknown, or he himself cannot be found, the Judge of the County Court for the County in which such property is situate, may, on the application of the Council appoint a person to act in respect to the same for all or any of the said purposes. (*m*)

Where a
party has a
life interest
only.

Sum award-
ed how to be
applied.

312.—In case any party acting as aforesaid has not the absolute estate in the property, the Council shall pay to him the interest only at six per centum per annum on the amount to be paid in respect of such property, and shall retain the principal to be paid to the party entitled to it whenever he claims the same, and executes a valid acquittance therefor, unless the Court of Chancery, or other Court having equitable jurisdiction in such cases, do in the mean time direct the Council to pay the same to any person or into Court; (*n*) and the Council shall not be bound to see to the application of any interest so paid or of any sum paid under the direction of such Court. (*o*)

cipal Council has authority under this act to enter upon, take or use, without the owner's consent.

(*m*) When no person entitled under the provisions of this act to convey the land required can be found, the County Judge may, on application of the Council, "appoint a person to act in respect of the same, for all or any of the said purposes."

(*n*) A railway company agreed to pay a land owner, tenant for life, a sum of money for the benefit of him or other the owner for the time being, for indemnifying him from the expense of making a new road, &c., and as a compensation for the annoyance which he or such other owners might sustain in consequence of the construction of the railway; and the company agreed to pay a further sum as the price of the land taken. Both sums were paid into court. The application of the tenant for life for the absolute payment to him of the first sum was refused. The costs of the road, &c., were paid out of it, and the rest invested. (*Re Duke of Marlborough Estates*, 13 Jur. 738.)

(*o*) This is a wise provision. It is a rule in equity that a person paying money to a trustee, &c., is bound to see to the application of the money. This has been found to work such hardship, that as between individuals it is now enacted that a person paying money upon an express or implied trust, is not bound to see to the application or be answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust. (12 Vic. cap. 71, sec. 10.) In the same spirit it is, by the section under consideration, enacted that a Municipal Council paying money, &c., as authorized by the section, shall not be bound to see to the application thereof.

313.—All sums agreed upon or awarded in respect of such real property, shall be subject to the limitations and charges to which the property was subject. (*p*)

Charges on the purchase money.

JOINT JURISDICTION OVER ROADS.

COUNTIES, CITIES AND TOWNS.

314.—In case a road or bridge lies wholly or partly between a County, Town or City and an adjoining County, Town or City, the Councils of the Municipalities between which the road or bridge lies, shall have joint jurisdiction over the same, although the road or bridge may so deviate as in some places to be wholly or in part within one County. (*q*)

Joint jurisdiction over certain roads

315.—No By-law of the Council of any one of such Municipalities, with respect to any such last mentioned road or

Both Councils must concur in

(*p*) In the absence of special clauses for that purpose, the effect of a provision enabling a person under disability, &c., to convey land for some authorized public purpose, is not to alter the course of devolution of property without the consent of the owner. And therefore if a municipal council, railway company, &c., contract with incapacitated persons for the purchase of land, the money is in equity to be considered as real and not as personal estate. (*Midland Counties Railway Co. v. Owen*, 8 Jur. 138.) Money paid into Court by a railway company, for land taken from a person who was in a state of mental imbecility, and who continued in that state until his death, but was not the subject of a commission of lunacy, was ordered after his death not to be reinvested in or considered as land, but to be paid to his executors. (*In re East Lincolnshire Railway Act*, 1 Sim. N.S. 260.) Money paid into Court for land taken under the compulsory powers of the English Act 5 & 6 Wm. IV. cap. 69; for a Poor Law Union, during the life of a tenant for life, who by the failure of intermediate limitations became tenant in fee simple, passed as real estate to his heir. (*In re Harness Estate*, 16 Jur. 1063.) Where the purchase money of land taken under the compulsory powers of an Act of Parliament, for public purposes, is paid into Court subject to be reinvested in the purchase of land, free of expense to the parties beneficially interested, on their petition, it is impressed with real uses and is *prima facie* to be treated as real estate. (*In re Stewart's Estates*, 16 Jur. 1063.) If the person absolutely entitled to the money land has a right to elect to take it as personalty, a mere acquiescence in its remaining invested in consols during his life, and his will, by which he bequeaths personal estate only, and does not devise realty, are not such proofs of election as to prevent the funds descending on his death to his heirs. (*Ib.*)

(*q*) This section does not make any mention of Incorporated Villages or Townships. As to Townships, it is elsewhere provided that the County Council shall have exclusive jurisdiction over all roads, &c., lying within any Township of the County, and which the Council assumes as a county road, &c. (Sec. 325.)

By-laws respecting them.

Arbitration if they do not concur.

bridge, (*r*) shall have any force until a By-law has been passed in similar terms as nearly as may be by the other of the Councils, having joint jurisdiction in the premises. (*s*)

316.—In case one of such Councils omits to pass a By-law in similar terms to that passed by the other for six months after notice of the By-law, the duties and liabilities of each Municipality in respect to the road or bridge shall be referred to arbitration under the provisions of this Act. (*t*)

POWERS OF ALL COUNCILS RESPECTING ROADS, BRIDGES AND WORKS.

By-laws respecting Statute Labour.

317.—The Council of every Township, County, City, Town and Incorporated Village (*u*) may pass By-laws: (*v*)

STATUTE LABOUR.

Voluntary commutation.

1. For empowering any person, (resident or non-resident liable to statute labour within the Municipality; (*w*) to compound for such labour, for any term not exceeding five years, at any sum, not exceeding one dollar, for each day's labour; (*x*)

Compulsory commutation.

2. For providing that a sum of money, not exceeding one dollar for each day's labour, may or shall be paid in commutation of such statute labour; (*y*)

(*r*) *i. e.* A road or bridge which lies wholly or partly between a County, Town or City, and an adjoining County, Town or City.

(*s*) In this manner only can "a joint jurisdiction" be exercised. If either municipality neglects for six months to pass a by-law similar in terms to that passed by the other, an arbitration must take place. (Sec. 316.)

(*t*) See sec. 336. It is not declared by whom the reference is to be made; but the intendment is that it is to be made by the Municipal Council which passed the by-law.

(*u*) Every description of municipality is embraced.

(*v*) *By-laws.*—See note *v* to sec. 186.

(*w*) Every male inhabitant of the age of twenty-one years and upwards, and under sixty years of age, whether possessed of property in the municipality or not, is liable either to statute labour or commutation therefor (16 Vic. cap. 182, secs. 35 & 36); and under the former law it was held that a non-resident owning several lots of land in the same township was chargeable on account of statute labour with the rate of commutation, estimated with reference to the value of each lot separately, and cannot claim to have them rated according to their aggregate value. (*The Canada Company v. Howard*, 9 U. C. Q. B. 654.)

(*x*) Two things here deserve attention; first, the term, and, secondly, the sum. In no statute hitherto was there express power given to compound for a term so long as five years. In 1857 Municipal Councils were expressly enabled to fix the commutation rate at any sum not exceeding five shillings for each day's labour. (20 Vic. cap. 6.)

(*y*) The power to commute for statute labour is given by sec. 36 of

3. For increasing or reducing the number of days' labour, to which the persons rated on the assessment roll or otherwise shall be liable, in proportion to the statute labour to which such persons are, in respect of the amounts at which they are assessed or otherwise, respectively liable : (z)

Fixing number of days' labour.

4. For enforcing the performance of statute labour, or payment of a commutation in money in lieu thereof, when not otherwise provided by law ; (a)

Enforcing Statute Labour.

5. For regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended ; (b)

Regulating the application of Labour and commutation money.

GENERAL POWERS.

6. For opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and pulling down, drains, sewers, water courses, roads, streets, squares, alleys, lanes, bridges or other public communications, within the jurisdiction of the Council, (c) and for entering upon, breaking up, taking or using any land in any way necessary or con-

Opening roads, &c.

16 Vic. cap. 182, and a scale is there furnished by which the commutation money of each person assessed shall bear a fair proportion to the property for which he is assessed.

(z) Power was given by the Assessment Act to the Municipal Council of every township, by by-law, to operate generally and ratably, to reduce or at their discretion increase the number of days' labour to which all the parties rated on the assessment roll or otherwise should be liable, so that the number of days' statute labour to which each person should be liable should be in proportion to the amount at which he is assessed. (16 Vic. cap. 182, sec. 36.)

(a) Statute labour or its commutation may, under the Assessment Act, be enforced by distress and sale of the goods and chattels of the party in default; failing which, he is liable to imprisonment for any time not exceeding six days. (Ib. sec. 42 *et seq.*) It was under the old law held that the Municipal Council of a village had no authority to impose the performance of statute labour, or a tax in lieu thereof, except on those inhabitants who were not otherwise assessed. (*In re Executors of Dickson v. the Municipal Council of the Village of Galt*, 9 U. C. Q. B. 257.) The authority of an incorporated village is now in this respect equal to that of any other description of municipality. (Sec. 409.) It was also held, under the Municipal Act of 1849, that a proprietor of land could not be compelled to do statute labour in the township in which the land lay, unless he himself were a resident of that township. (*Moore v. Jarron*, 9 U. C. Q. B. 233.)

(b) The power to regulate the divisions implies a power to make divisions, to which is added a power to regulate the manner in which the labour shall be performed or the commutation money expended in each division.

(c) The jurisdiction depends on secs. 302 to 314, inclusive of this act.

venient for the said purposes, subject to the restrictions in this Act contained ; (d)

TOLLS.

To raise money by toll.

7. For raising money by toll, on any bridge, road or other work, to defray the expense of making or repairing the same ; (e)

FAST DRIVING ON BRIDGES.

To regulate driving on bridges.

8. For regulating the Driving and Riding on public Bridges ; (f)

PITS AND PRECIPICES.

To make regulations as to pits, &c.

9. For making regulations as to pits, precipices and deep waters, and other places dangerous to travellers ; (g)

(d) It was at one time contended that the Municipal Councils have only authority to change the direction of existing roads, and to widen or otherwise alter them—not to make new roads ; but it is now settled that such Councils have power to make new roads through any person's lands, not merely as substitutes for other roads running near and between the same points, but to afford a passage from one point to another where there has been no passage before. (*Dennis v. Hughes et al.*, 8 U. C. Q. B. 444.) The power to repair highways must be reasonably exercised. (*Reid v. the City of Hamilton*, 5 U. C. C. P. 269 ; *Croft v. the Town Council of Peterborough*, 5 U. C. C. P. 35.) A Municipal Council, for instance, in order to drain a highway, has no right to bring down water in any quantity upon the land of an individual, and leave the water to stagnate there, without showing that it could not in any way have been got rid of without throwing it on plaintiff's land, and without showing that it was not in the power of the Council to lead the water away from the plaintiff's land after the Council had conducted it there. (*Brown v. the Municipal Council of Sarnia*, 11 U. C. Q. B. 87.) But the Council is not responsible for injuries to the property of private persons resulting from natural causes,—thus : where, during the repair of a highway, stones and other materials collected for it about a culvert, were by a violent storm carried into a miller's raceway, the Council was held not to be liable for the damage. (*Snook et al. v. the Town Council of Brantford*, 14 U. C. Q. B. 255.) A by-law of a County Council appropriating a certain sum of money “to be expended on certain roads within the county (not defined) in such manner as the township and town councillors may think proper,” has been held bad. (*In re Conger and the Peterborough Municipal Council*, 8 U. C. Q. B. 349.) So a by-law taxing the wild lands of a district, “for the purpose of improving the roads and bridges (not defined), and liquidating the debts of the district.” (*Doe dem. McGill v. Langton*, 9 U. C. Q. B. 91.)

(e) The authority to raise money by toll on a bridge, &c., appears to exist only when necessary “to defray the expense of making or repairing the same.”

(f) Of course a Municipal Council has no jurisdiction over a private bridge on private property.

(g) The power to make regulations as to pits, &c., and other places

ROAD ALLOWANCES.

10. For preserving or selling timber trees, stone, sand, or gravel, on any allowance or appropriation for a public road; (*h*)

For preservation of trees, stone, &c.

11. For selling the original road allowance to the parties next adjoining whose lands the same is situated when a public road has been opened, in lieu of the original road allowance, and for the site or line of which compensation has been paid, and for selling in like manner to the owners of any adjoining land; any road legally stopped up or altered by the Council; and in case such parties respectively refuse to become the purchasers at such price as the Council thinks reasonable, then for the sale thereof to any other person for the same or a greater price: (*i*)

When the Council may stop up or sell a road allowance.

PERMITTING ROADS TO PASS, &c. (*j*)

12. For regulating the manner of granting to Road or Bridge Companies permission to commence or proceed with Roads or Bridges within its jurisdiction, and for regulating the manner of ascertaining and declaring the completion of the work so as to entitle such companies to levy tolls thereon, and for regulating the manner of making the examinations necessary for the proper exercise of these powers by the Council;

Granting privileges to Road or Bridge Companies.

TAKING STOCK IN.

13. For taking stock in, or lending money to, any such incorporated Road or Bridge Company, under and subject to the respective Statutes in that behalf; (*k*)

Taking stock in, or making loans to such Companies.

dangerous to travellers, may involve the right to some degree to interfere with private rights of property.

(*h*) It has been questioned whether a Municipal Corporation has a right to sell timber trees on a road allowance, so as to impart a vested interest and possession in the trees to the vendee, and in the soil as incidental. If the vendee were not bound forthwith to remove them, they might be suffered to remain incumbering the allowance for road indefinitely. (*Cochran v. Hislop*, 3 U. C. C. P. 440.)

(*i*) Where a public road has been opened through private property, in lieu of an original allowance for road, for which compensation has been paid, the original allowance may be sold "to the parties next adjoining whose lands the same is situated." The allowance may adjoin on each side the lands of different parties, and it then becomes a question whether the Council is bound to sell to each one half of the allowance, or may sell the whole to one. Similar authority is conferred as to "any road legally stopped up and altered by the Council." If the parties entitled to preëmption refuse to purchase, then and only then is the Council authorized to sell to any other person.

(*j*) The heading should be "Permitting road and bridge companies to pass," &c.

(*k*) The Act for the formation of Joint Stock Companies for the

TOLLS ON, MAY BE GRANTED.

Granting
right to take
tolls, when.

To exact
tolls, when.

14. For granting to any person, in consideration or part consideration of planking, gravelling or macadamizing a road, or of building a bridge, the tolls fixed by By-law to be levied on the work for a period of not more than twenty-one years after the work has been completed and after such completion has been declared by a By-law of the Council authorizing tolls to be collected. And the grantee of such tolls shall, during the period of his right thereto, maintain the road or bridge in repair. (*l*)

OLD ROAD ALLOWANCES.

When a road
is substituted for an
original
allowance.

318.—In case any one in possession of a Concession road or side line has laid out and opened a road or street in place thereof without receiving compensation therefor, or in case a new or travelled public road has been laid out and opened in lieu of an original allowance for road, and for which no compensation has been paid to the owner of the land appropriated as a public road in place of such original allowance, the owner, if his lands adjoin the concession road, side line, or original allowance, shall be entitled thereto, in lieu of the road so laid out, (*m*) and the Council of the Municipality upon the report in writing, of its Surveyor, or of a Deputy Provincial Land Surveyor, (*n*) that such new or travelled road is sufficient for

construction of Roads and other Works in Upper Canada, is 16 Vic. cap. 190. In addition to this, there are, no doubt, private acts of incorporation.

(*l*) A grant for a term of years is authorized for a consideration stated. The grant is to be of the rates fixed by by-law to be levied, &c. The term is not to be more than twenty-one years; and the consideration, or part consideration, is to be that of planking, gravelling, or macadamizing the road, &c., or of building a bridge, &c.

(*m*) So far, this section provides for two cases; first, where a person in possession of a concession road or side line has *himself* laid out and opened a road, &c., in place thereof; secondly, where a new or travelled road has been laid out and opened by, it is conceived, *the proper authority*, in lieu of an original allowance for road, &c. In either of these cases, if no compensation has been paid to the owner of the land, and if his lands adjoin the concession road, side line, or original allowance, he shall be *entitled* to the original road allowance in lieu of the road laid out. But though entitled, it would appear from what follows, that to make his title complete there must be a conveyance from the Municipal Council to him of the original road allowance.

(*n*) If the Municipal Council has a surveyor in its employment, the report is to be by him; if not—by *any* deputy provincial land surveyor.

the purposes of a public highway, (*o*) may convey the said original allowance for road in fee simple to the person or persons upon whose land the new road runs, (*p*) and when any such original road allowance is, in the opinion of the Council, useless to the public, and lies between lands owned by different parties, the Municipal Council may, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties as may seem just and reasonable; (*q*) And in case compensation was not paid for the new road, and the person through whose land the same passes does not own the land adjoining the original road allowance, the amount received from the purchaser of the corresponding part of the road allowance when sold, shall be paid to the person who at the time of the sale owns the land through which the new road passes. (*r*)

Conveying
of former
road allow-
ance.

POSSESSION OF ROAD ALLOWANCES.

319.—In case a person is in possession of any part of a Government allowance for road laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, or is in possession of any government allowance for road parallel or near to which a road has been established by law in lieu thereof, such person shall be deemed legally possessed thereof as against any private person, until a By-law has been passed for opening such allowance for road by the Council having jurisdiction over the same. (*s*)

Original
allowances
for roads,
when to be
deemed legal-
ly possessed
till a by-law
is passed for
opening
them.

(*o*) The surveyor, on making his report, cannot do better than adopt the very language of this section. He should in his report be particular to show the exact width of the road and the line it is to run. (*The King v. Sanderson*, 3 U. C. O. S. 103; see also *Purdy v. Farley*, 10 U. C. Q. B. 545.)

(*p*) It is not said whether the conveyance should be effected by by-law or by ordinary deed of conveyance. The proper course would be, it is apprehended, to pass a by-law authorizing the conveyance, and afterwards, in pursuance thereof, to execute a formal deed of conveyance. (*In re Choate et al. and the Municipality of the Township of Hope*, 16 U. C. Q. B. 424.) The power to sell the allowance for road exists when, in the opinion of the Council, it is *useless* to the public; as to which see *Purdy v. Farley*, 10 U. C. Q. B. 545.

(*q*) The expression, "subject to the conditions aforesaid," refers to the report of the surveyor, &c.

(*r*) If the person from whom the land for the new road is taken has not land adjoining the old road allowance, the allowance would be of little or no use to him. For this reason it is provided that in such case the allowance shall be sold, and the proceeds paid to the person whose land is taken for the new road.

(*s*) This section provides for the security of, first, a person in possession of any part of a Government allowance for road, &c., not

NOTICE OF BY-LAWS FOR OPENING SUCH ALLOWANCES.

By-law for opening, &c., roads, &c., to require notice.

320.—But no such By-law shall be passed until notice in writing has been given to the person in possession, at least eight days before the meeting of the Council, that an application will be made for opening such allowance. (*t*)

AIDING COUNTIES IN MAKING ROADS AND BRIDGES.

321.—The Municipal Council of every Township, City, Town and Incorporated Village, (*u*) may pass By-laws; (*v*)

Aiding Counties in making roads and bridges.

1. For granting to the County or United Counties in which such Municipality lies, aid, by loan or otherwise, towards opening or making any new road or bridge on the bounds of such Municipality: (*w*)

opened for use "by reason of *another road being used in lieu thereof*;" and secondly, a person in possession of any Government allowance for road, parallel or near to which "a road *has been established by law in lieu thereof*," &c. A person so circumstanced is to be deemed legally possessed as against any "*private person*," but not as against the Crown; and he is to be deemed so possessed "until a by-law has been passed for opening such allowance," &c. So that as well against private persons as Municipal Councils, until a by-law is passed for opening, &c., he is to be deemed legally possessed. By an act of 1810, all allowances for roads laid out by public authority were declared, whether opened or not, used or not, "*public highways*;" (50 Geo. III. cap. 1, sec. 12) but for the security of persons in possession of them when not used, it was in 1846 enacted that no allowance for road in possession of a private person should be opened unless upon notice to him, and the passing of an order of the proper municipal authority. (9 Vic. cap. 8.) Both these enactments are now repealed by sec. 403 of this act, but are in substance reenacted. A person in possession of a road allowance where a new road has been opened or is used in lieu of it, to save himself from all disturbance, had better acquire a legal title thereto, pursuant to sec. 318 of this act. (See *Purdy v. Farley*, 10 U. C. Q. B. 545.)

(*t*) Such was the old law. (See preceding note.) As to the computation of the time ("at least eight days before, &c."), see note *d* to sec. 97.

(*u*) *Counties* are not here mentioned, because the object of the section is to enable the Councils of the Municipalities named to assist the Councils of Counties.

(*v*) *By-laws*.—See note *v*. to sec. 186.

(*w*) As a rule, Councils of Municipalities, less than Counties, have not power spontaneously to assess themselves for county purposes. (See note *u* to sec. 186.) The power given by this clause is to grant aid by loan or otherwise towards opening or making any new road, *i. e.* not stating whether the same may be done voluntarily, or only upon the solicitation of the Council of the County.

2. For entering into and performing any arrangement with any other Council in the same County or United Counties, (x) for executing, at their joint expense and for their joint benefit any work within the jurisdiction of the Council. (y)

Joint works with other Municipalities.

HIGHWAYS IN CITIES, TOWNSHIPS, TOWNS AND INCORPORATED VILLAGES.

322.—Every public road, street bridge or other highway, in a City, Township, Town or incorporated Village, shall be vested in the Municipality, (z) subject to any rights in the soil which the individuals who laid out such road, street, bridge or highway, reserved; (a) and except any concession or other road within the City, Township or Town or incorporated Village, taken and held possession of by an individual in lieu of a street, road or highway, laid out by him without compensation therefor. (b)

Streets in cities, towns, and incorporated villages, how far vested in Municipalities.

(x) A distinction is made in this section between counties and other municipalities. The clause here annotated applies to Councils other than County Councils.

(y) A bridge between two Municipalities—Townships, for example—divided by a stream, is a good example of a work that may be executed at “joint expense” and for “joint benefit.”

(z) This section it will be observed applies to Cities, Townships, Towns and Incorporated Villages. The old Act 13 & 14 Vic. cap. 15, applied to Cities and Towns only. “Townships” were introduced by the Legislative Council after the bill had passed the Legislative Assembly; and the introduction of them may give rise to a question, how far roads owned by the government, sold by the government to companies or otherwise owned by companies, are liable to be affected by this section. So long as the law was confined to Cities and Towns, and perhaps Incorporated Villages, there could be no conflict, as the roads or parts of roads therein did not pass from the government to private companies. To obviate the difficulty it will be necessary to read the section under consideration in reference to sec. 404, which provides that statutes not mentioned in this Act are not to be affected by it. Neither the 9 Vic. cap. 37, secs. 7, 12, 13, 23, sch. A.; nor 10 & 11 Vic. cap. 24, as to roads owned by government; nor 12 Vic. cap. 5, secs. 12 and 13; nor 14 & 15 Vic. cap. 57, sec. 1, respecting the sale of public works, including certain roads; nor 16 Vic. cap. 190, respecting joint stock road companies, are mentioned in this Act and are therefore not affected by it, as to the rights acquired under them. Besides it is also expressly enacted that no Council shall interfere with any public road or bridge vested as a provincial work in Her Majesty, or in any public department or board. (Sec. 303.)

(a) It is seldom if ever, in Upper Canada, that a person granting land for a public road makes any reservation as to the soil.

(b) If this section were read alone, it might be inferred that concessions or other roads taken and held possession of by an individual, in lieu of a street, &c., laid out by him, without compensation, are

To be kept in repair by the Corporation, on pain of damages.

323.—Every such road, street, bridge and highway shall be kept in repair by the Corporation, (c) and the default of the Corporation so to keep in repair, shall be a misdemeanor punishable by fine in the discretion of the Court, (d) and the Corporation shall be further civilly responsible for all damages sustained by any person by reason of such default, (e) but the action must be brought within three months after the damages have been sustained. (f) And this Section shall not apply to any road, street, bridge or highway laid out without the consent of the Corporation by By-law, until established and assumed by By-law. (g)

LOCAL IMPROVEMENTS OF STREETS.

324.—The Council of every City, Town and Incorporated Village, (h) may also pass By-laws, (i) for the following purposes :

not vested in the Municipality ; but unless such a person hold a conveyance of such concession, &c., obtained under sec. 318, it is conceived his title would only be possession under sec. 319, subject to be terminated as therein enacted. (See *Purdy v. Farley*, 10 U. C. Q. B. 545.)

(c) It was held, under the Municipal Act of 1849, that a Municipal Council of a township had not power to appropriate the revenue arising from a tax imposed on the owners of dogs in only one part of the township, to the improvement of the public streets and to other purposes within the limits of such part of the township. (*In re Richmond v. the Municipality of the Front of Leeds and Lansdowne*, 8 U. C. Q. B. 567.)

(d) *Misdemeanor.*—See note *r* to sec. 45. As a corporation cannot be compelled at the assizes or sessions to appoint an attorney, an indictment found against it must be by certiorari, moved into one of the superior courts of common law, and then proceedings be had by *venire facias* and *distringas*, if necessary, to compel the corporation to appear and plead to the indictment. (Archbold's Crown Office, 171.) When issue is joined, a record may be made up and sent down for trial before a jury, as in an ordinary case. (Ib.)

(e) Whenever it is made the duty of a corporation to do a particular thing—keep a highway in repair, for example—if from neglect of that duty injury results to a private individual, a remedy generally follows.

(f) The months intended are calendar months. (12 Vic. cap. 10, sec. 5, subsec. 11.)

(g) *By-law.*—See note *v* to sec. 186.

(h) Neither counties nor townships are mentioned. The provisions of this section are such as do not apply to rural municipalities.

(i) *By-laws*—See note *v* to sec. 186.

1. For assessing and collecting from the proprietors of real property, immediately benefited by making or repairing any Pavement in any public way or place near to such property, such sums as may be necessary for so making or repairing the same; (*j*)

Local rates
for pave-
ments.

2. For raising, upon the petition of at least two thirds of the freeholders and householders resident in any street, square, alley or lane, representing in value one half of the ratable property therein, such sums as may be necessary for Sweeping, Watering or Lighting the street, square, alley or lane, by means of a special rate on the ratable property therein; (*k*) but the Council may charge the general corporate funds with the expenditure incurred in such Making or Repairing, or in such Sweeping, Watering or Lighting as aforesaid; (*l*)

Watering
and sweep-
ing streets.

3. For regulating or preventing the incumbering, injuring or fouling, by animals, vehicles, vessels or other means, of any road, street, square, alley, lane, bridge or other communication; (*m*)

Preventing
obstructions
in streets.

4. For directing the removal of door steps, porches, railing or other erections, or obstructions projecting into or over any road, or other public communication, at the expense of the proprietor or occupant of the property connected with which such projections are found; (*n*)

Removal of
door-steps.

5. For surveying, settling and marking the boundary lines of all Streets, Roads and other public communications, and for giving names thereto and affixing such names at the corners thereof on either public or private property. (*o*)

For marking
the bounda-
ries of and
naming
streets.

(*j*) The principle of local instead of general assessment is here sanctioned. The assessment for making or repairing any pavement, &c., may be imposed upon "the proprietors of real property immediately benefited," &c.

(*k*) The objects here contemplated are sweeping, watering or lighting. Assessments may be made for one or other of those objects, "upon petition of at least *two-thirds* of the freeholders and householders resident in any street, &c., representing in value *one half* of the ratable property therein," &c. As to what constitutes residence, see note *r* to sec. 75.

(*l*) The meaning is, that for the purposes mentioned the Council *may* but is not bound to assess localities immediately benefited. If such be not done, of course the charge will fall upon "the general corporate funds."

(*m*) The power is not only to "regulate," but to "prevent," each

(*n*) See note *u* to subsec. 2 of sec. 287, p. 153.
of which has a distinctive meaning involving distinct powers.

(*o*) To "survey" a street may be to open a new street; to "settle" a street may be to make certain the boundaries of a street already laid out; and this done, the boundary lines may be "marked."

EXCLUSIVE JURISDICTION OVER ROADS.

COUNTIES.

WHAT ROADS.

Exclusive jurisdiction over certain roads by Counties.

325.—The County Council shall have exclusive jurisdiction over all Roads and Bridges lying within any Township of the County and which the Council by By-law assumes as a County Road or Bridge, until the By-law has been repealed by the Council, and over all Bridges across streams separating two Townships in the County; and over every Road or Bridge dividing different Townships, although such Road may so deviate as in some places to lie, wholly or in part, within one Township. (*p*)

ROADS ASSUMED TO BE MACADAMIZED.

Roads assumed to be macadamized, &c.

326.—When a County Council assumes by By-law any Road or Bridge within a township as a County Road or Bridge, the Council shall, with as little delay as reasonably may be, and at the expense of the County, cause the Road to be planked, gravelled or macadamized, or the Bridge to be built in a good and substantial manner. (*q*)

CERTAIN POWERS OF JUSTICES IN SESSIONS TRANSFERRED.

Certain powers of Justices in sessions transferred.

327.—All powers, duties and liabilities which at any time before the first day of January, one thousand eight hundred and fifty, belonged to the Magistrates in Quarter Sessions, with respect to any particular Road or Bridge in a County,

(*p*) It became a question under the former statute (12 Vic. 81, ss. 38 & 39), as to the municipality upon which rested the burthen of keeping in repair a bridge crossing a river, which river at the point of intersection not only divided two townships but two county municipalities. The expressions there were, roads and bridges running, lying and being *between* different townships, and *between* different counties, &c., respectively. The expression in the present section is, "over all bridges across streams separating two townships in the county," and "over every road or bridge dividing different townships, although such road may so deviate," &c. To preserve consistency, the words "or bridge" should have here followed "road." The language of the section does not, however, in any view, meet the case supposed. The section 314 speaks of a bridge wholly or "*partly*" between a county and an adjoining county, and the word "*partly*" may be held to conclude the question by showing that the jurisdiction and liability are joint. (See also ss. 316 & 327; and *Lafferty v. Stock*, 3 U. C. C. P. 1.)

(*q*) When a Municipal Council is bound to plank, gravel, or macadamize a road, and refuses to do so, a mandamus may issue to compel the performance of the duty. (*In re the Municipality of the Township of Augusta and the Municipal Council of the United Counties of Leeds and Grenville*, 12 U. C. Q. B. 522.)

and not conferred or imposed upon any other Municipal Corporation, shall belong to the Council of the County, or, in case the road or bridge lies in two or more counties, to the Councils of such Counties, and the neglect or disobedience of any regulations or directions made by such Council or Councils, shall subject the offenders to the same penalties and other consequences as the neglect or disobedience of the like regulations or directions of the Magistrates would have subjected them to. (*r*)

GENERAL POWERS OF COUNTIES RESPECTING HIGHWAYS.

328.—The Council of every County shall have power to pass By-laws (*s*) for the following purposes :

1. For stopping up, or stopping up and sale, of any original allowance for roads or parts thereof within the County, which is subject to the sole jurisdiction and control of the Council, and not being within the limits of any Village, Town or City within or adjoining the County; but the By-law for this purpose shall be subject to the three hundred and eighth section of this Act; (*t*)

Sale of original allowance, &c., for roads in certain cases.

2. For preventing immoderate riding or driving of horses or other cattle on the highways, whether Township or County highways; (*u*)

Preventing furious driving.

3. For opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and pulling down, drains, sewers, water courses, roads, streets, squares, alleys, lanes, bridges or other public communications, running or being within one or more Townships, or between two or more Townships of the County, or between the County, and any adjoining County or City, or on the bounds of any Town or incorporated Village within the boundaries of the County, as the interests of the inhabitants of the County in the opinion of the Council require to be so opened, made, preserved and improved, and for entering upon, breaking up, taking or using

Roads within or between several Municipalities.

(*r*) It is a question, how far this provision is at all necessary or material. Powers, duties and liabilities, as to every road or bridge is, it is believed, by the operation of this act, conferred on some municipality or other.

(*s*) *By-law*.—See note *v* to sec. 186.

(*t*) See notes to sec. 308.

(*u*) So as to prevent immoderate driving, the Council is invested with the jurisdiction necessary to pass by-laws for the purpose over all highways, whether township or county highways. The jurisdiction apparently does not extend to highways in towns or incorporated villages, and certainly not in cities, for cities for such purposes are deemed counties.

any land in any way necessary or convenient for the said purposes, (v) subject to the restrictions hereinafter contained; (w)

TREES OBSTRUCTING HIGHWAYS.

May direct the trees to be cleared on each side of highways.

4. For directing that, on each or either side of a highway passing through a wood, the trees, (unless they form part of an orchard or a shrubbery, or have been planted expressly for ornament or shelter,) shall for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the Proprietor within a time appointed by the By-law; or, on his default, by the County Surveyor or other Officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the Overseer or other Officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the By-law into effect; (ww)

May grant aid to Counties in making roads, &c.

LOCAL RATES FOR SPECIAL IMPROVEMENTS.

Local rates for special improvements.

5. For levying by Assessment on all the ratable property within any particular parts of two Townships to be described by metes and bounds in the By-law, in addition to all other Rates, a sum sufficient to defray the expense of making, re-

(v) The powers of County Councils under this clause extend to drains, sewers, water courses, roads, streets, &c.

1. *Within* one or more townships.
2. *Between* two or more townships.
3. *Between* the county and adjoining county or city.
4. *On the bounds* of any town or incorporated village.

See note *p* to sec. 325.

(w) "Subject to the restrictions *hereinafter* contained." The word "*hereinafter*" is clearly erroneous, and probably intended for "*hereinbefore*." The restrictions to which reference is made are those contained in secs. 303 to 308 inclusive of this act, which apply to every Municipal Council. In committee, there was a transposition of the clauses of the bill. The clauses containing the restriction, when the bill was introduced, followed, not preceded, the section under consideration.

(ww) Powers precisely similar to those by this clause conferred on counties are also by this act conferred on townships. (Sec. 329, subsec. 3.) This may cause some conflict of jurisdiction. With respect to counties, if the proprietor neglects or refuses, within the time limited for the purpose, to remove the trees, it is enacted that the removal may be effected by "*the County Surveyor*," in which case the by-law may authorize the trees to be used "*by the Overseer or other officer*," for any purpose connected with the improvement of the highways, &c. With respect to townships, these powers are to be exercised by "*the Overseer of Highways*." (Sec. 329, subsec. 3.) Where the word "*Overseer*" occurs in the section here annotated, it is presumed that it also means "*Overseer of Highways*."

pairing or improving any Road, Bridge, or other public work, lying between such parts of such two Townships, and by which the inhabitants of such parts will be more especially benefited; (x)

6. But no such By-law, as referred to in the last preceeding sub-section, shall be passed, except—1. Upon a petition signed by at least one half of the Electors within those parts of such Townships which are to be affected by the By-law: 2. (y) Nor unless a printed notice of the petition, with the names of the signers thereto, describing the limits within which the By-law is to have force, has been given for at least one month, by putting up the same in four different places within such parts of the Township and at the places for holding the sittings of the Council of each Township, whether it be within such parts or not, and also by inserting the same weekly for at least four weeks in some newspaper, if any there be published in the County, or if there is no such newspaper, then in a newspaper published in some adjoining County; (z)

Proceedings
to obtain a
by-law for.

AIDING TOWNSHIPS, &C., IN MAKING ROADS AND BRIDGES.

7. For granting to any Town, Township, or Incorporated Village in the County, aid, by loan or otherwise, towards opening or making any new Road or Bridge in the Town, Township or Village, in cases where the Council deems the County at large sufficiently interested in the work to justify such assistance, but not sufficiently interested to justify the Council in at once assuming the same as a County work; (a)

For aiding in
making roads
and bridges.

(x) As to assessments on localities less than the whole municipality, see notes to sec. 324.

(y) A petition for local assessment in a city, town, or incorporated village, must be signed by "*resident* freeholders and householders," but in a county by "Electors," who must be male freeholders or householders assessed for a given sum, but not necessarily residents. (See secs. 75 & 324.)

(z) Here too there is a difference between counties and other municipalities in respect to the subject matter of this section; for although as to counties publication of the petition, in the manner above directed is required, no publication is necessary as to cities, towns, or incorporated villages. (Sec. 324.)

(a) The power of a County Council to grant aid for the purposes mentioned exists only where the Council deems the County at large sufficiently interested "to justify the assistance," but not so much so as to justify the Council in at once assuming the work as a county work. The line of demarcation may not be in all cases easily drawn, but the decision rests with the Council, and for this reason cannot cause much difficulty.

Making, &c.,
any County
road.

8. For requiring that the whole or any part of any County road shall be opened, improved and maintained by any local Municipality within the County. (*b*)

TOWNSHIPS.

329.—The Council of every Township may pass By-laws : (*c*)

‘AIDING COUNTIES IN MAKING ROADS.

Aiding
County in
making
roads.

1. For granting to any adjoining County, aid in making, opening, maintaining, widening, raising, lowering or otherwise improving any highway, road, street, bridge or communication lying between the Township and any other Municipality (*d*), and for granting like aid to the County in which the Township lies in respect of any highway, road, street, bridge or communication within the Township assumed by the County as a County work, or agreed to be so assumed on condition of such grant; (*e*)

ORIGINAL ROAD ALLOWANCES.

Stopping up
and sale of
original road
allowance.

2. For the stopping up and sale of any original allowance for road or any part thereof within the Municipality, and for fixing and declaring therein the terms upon which the same is to be sold and conveyed; but no such By-law shall have any force (1) unless passed in accordance with the three hundred and eighth section of this Act, nor (*f*) (2) until confirmed by a By-law of the Council of the County in which the Township is situated, at an Ordinary Session of the County Council, held not sooner than three months, nor later than one year next after the passing thereof; (*g*)

TREES OBSTRUCTING HIGHWAYS.

Ordering
trees to be
cut down on
each side of a
road.

3. For directing that, on each or either side of a highway passing through a wood, the trees (unless they form part of an orchard or shrubbery, or have been planted expressly for

(*b*) This is a new provision. The word “local municipality” does not, it is believed, embrace a city.

(*c*) *By-laws.*—See note *v* to sec. 186.

(*d*) The power of the township to aid a county in which it is *not* situate, in the making, opening, &c., any highway, &c., does not extend to all roads, &c., but only such as are lying *between* the township granting the aid and any other municipality, though in a different county.

(*e*) The grant in aid of the county in which the municipality granting the aid is situate, may be made in respect of any highway, &c., *within* the township assumed by the county as a county work, &c.

(*f*) See note *g* to sec. 308.

(*g*) The by-law, until so confirmed, is not effectual. (*Boulton and the Town Council of Peterborough*, 16 U. C. Q. B. 380.)

ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the By-law, or, on his default, by the Overseer of Highways, or other Officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the Overseer or other Officer, for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the By-law into effect. (*h*)

WHEN ROADS IN VILLAGES OR HAMLETS MAY BE SOLD BY TOWNSHIP COUNCILS.

330.—In case the Trustees of any Police Village, (*i*) or fifteen of the inhabitant householders of any other unincorporated village or hamlet consisting of not less than twenty dwelling houses standing within an area of two hundred acres, (*j*) petition the Council of the Township in which the village or hamlet is situate, (*k*) and in case the petition of such unincorporated village or hamlet, not being a Police Village, is accompanied by a certificate from the Registrar of the County within which the Township lies, that a plan of the village or hamlet has been duly deposited in his office according to the registry laws, (*l*) the Council may pass a By-law to stop up, sell and convey, or otherwise deal with any original allowance for road lying within the limits of the village or hamlet, as the same shall be laid down on the plan, but subject to all the restrictions contained in this Act with reference to the sale of original allowances. (*m*)

When roads in Police Villages may be sold by Township Councils.

(*h*) See note *w* to sec. 328.

(*i*) Of whom there should be three in number. (Sec. 68.)

(*j*) *Inhabitant householders.* See note *d* to sec. 64.

(*k*) Though a village and hamlet are in common acceptation synonymous terms, strictly speaking "hamlet" signifies a little village, or a collection of houses less than a village.

(*l*) Any person, corporation or company, who have surveyed or shall hereafter survey and subdivide any land into town or village lots, differing from the manner in which such lands were described, as granted by the Crown, may lodge with the Registrar of the County a plan or map of such town or village lots, showing the numbers and ranges of such lots, and the names, sites and boundaries of the streets or lanes, by which such lots may be in whole or in part divided, together with a declaration, to be signed by such person, or by the lawful officer, agent or attorney, of such corporation or company, that the said plan contains a true description of the lots and streets laid out and appropriated by such person, corporation or company, &c. (9 Vic. cap. 34, sec. 33; see also 12 Vic. cap. 35, secs. 41 & 42.)

(*m*) See sec. 308 and sec. 318 *et seq.*

When village is partly in each of two townships.

331.—The last section shall apply to a village or hamlet situate in two townships, whether such Townships are in the same or different Counties, and in such case the Council of each of the Townships shall have the powers hereby conferred, as to any original allowance for road lying within that part of the village or hamlet which, according to the registered plan, is situate within such Township. (*n*)

RAILWAYS.

332.—The Council of every Township, County, City, Town and Incorporated Village (*o*) may pass By-laws: (*p*)

TAKING STOCK IN OR AIDING RAILWAY COMPANIES.

Council may make by-laws:

For taking stock in railways, or guaranteeing debentures.

For guaranteeing the payment of debentures, &c.

1. For subscribing for any number of shares in the Capital Stock of or for lending to or guaranteeing the payment of any sum of money borrowed by an incorporated Railway Company to which the eighteenth Section of the Statute fourteenth and fifteenth Victoria, Chapter fifty-one,—(the Railway Clauses Consolidation Act) has been made applicable by any special Act; (*q*)

2. For endorsing or guaranteeing the payment of any Debenture to be issued by the Company for the money by them borrowed, and for assessing and levying from time to time upon the whole ratable property of the Municipality, a sufficient sum to discharge the debt or engagement so contracted; (*r*)

(*n*) The last section in terms applies only to a village or hamlet situate in one and the same township, as well as in one and the same county, but as villages are often formed at the corners of different townships, which may or may not be in different counties, it is by this section made to extend to "a village or hamlet situate in two townships, whether such townships are in the same county or in different counties." The extension is scarcely sufficient, for there are villages formed of parts of *more* than two townships. Orangeville is composed of parts of the townships of Mono in the county of Simcoe, of Caledon in the county of Peel, and of Garafraxa in the county of Wellington.

(*o*) Every form of Municipal Council is here included. (Sec. 402, subsec. 1.)

(*p*) *By-laws.*—See note *v* to sec. 186.

(*q*) Part of the 18th section of 14 & 15 Vic. cap. 51, has been made applicable to the Grand Trunk Railway Company (16 Vic. cap. 43, sec. 18) and to the Peterborough and Port Hope Railway Company (16 Vic. cap. 49), and probably to other companies, of which an enumeration is not necessary in this place.

(*r*) A Municipal Council may under this clause *endorse* or *guarantee* a debenture issued by the railway companies intended, and may assess and levy a sufficient sum to discharge the *debt* or *engagement*. An endorsement under the clause would seem to be deemed "a debt," while a guarantee is termed "an engagement."

3. For issuing, for the like purpose, Debentures payable at such times and for such sums respectively, not less than twenty dollars, and bearing or not bearing interest as the Municipal Council may think meet; (s)

For issuing debentures.

4. For directing the manner and form of signing or endorsing any Debenture so issued, endorsed or guaranteed and of countersigning the same, and by what officer or person the same shall be so signed, endorsed or countersigned, respectively; But no Municipal Corporation shall subscribe for stock or incur a debt or liability for the purposes aforesaid unless the By-law before the final passing thereof has received the assent of the Electors of the Municipality in manner provided by this Act. (t)

To be confirmed by public vote.

333.—Any Debenture for any of the purposes in the preceding section mentioned, signed or endorsed and countersigned as directed by the By-law, shall be valid and binding on the Corporation without the Corporate Seal thereto, or the observance of any other form with regard to the Debenture than such as may be directed in the By-law. (u)

Debentures, when valid.

Such debentures valid without the corporate seal.

334.—In case any Municipal Council subscribes for and holds stock in such Company to the amount of twenty thousand dollars or upwards, the Head of the Council shall be *ex-officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties, as the other Directors of the Company. (v)

Head, when to be a Director.

335.—The Council of every Township may pass By-laws for authorizing any railway company, in case such authority

Authorizing branch Railways.

(s) No Council is allowed, "unless specially authorized so to do, to give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than \$100." (Sec. 214.) By this clause a special authority is given for the issue of debentures in aid of railway companies, in sums "not less than twenty dollars."

(t) See sec. 192 *et seq.*

(u) As a rule, all debentures and other specialties duly authorized to be executed on behalf of a Municipal Corporation, must be not only for sums not less than \$100 (see note s above), but be sealed with the seal of the corporation, and be signed by the head thereof, or some other person authorized by by-law to sign the same. (Sec. 209.) But debentures issued under these sections in aid of railway companies are exceptions to both the general rules.

(v) The Head of a Municipal Council is to be *ex-officio* a director of a railway company only when the Council of which he is Head "subscribes for and holds stock in such company to the amount of \$20,000 or upwards."

is necessary, to make any branch railway on property of the Corporation, or on highways, under such conditions as the Council sees fit, and subject to the restrictions contained in the Railway Clauses Consolidation Act, and any other Acts affecting such Railway. (*w*)

ARBITRATIONS.

336.—In all cases of arbitration directed by this Act, the proceedings shall be as follows: (*x*)

Mode of appointing arbitrators and conducting arbitrations.

1. Each party shall appoint one arbitrator, and give notice thereof in writing to the other party; and when the other party is a corporation, the notice shall be given to the head of the corporation. (*y*)

Third arbitrator.

2. The two arbitors appointed by or for the parties shall choose a third arbitrator. (*z*)

Provision in case of neglect to appoint.

3. In case of an arbitration between townships, or between counties, or between a county and a city, or between a county and town, if for one calendar month after having received such notice the party notified omits appointing an arbitrator, and if for ten days after the second arbitrator has been appointed the two arbitrators omit to appoint a third arbitrator, then, in case the arbitration is between townships, the Warden of the

(*w*) A railway act of incorporation, if at all complete, should confer the authority direct on the company, instead of leaving the company to obtain the authority from Township Councils.

(*x*) The act by which parties may refer any dispute between them to the private decision of another party or parties is called a submission. The party or parties to whom the reference is made, arbitrator or arbitrators respectively. When the reference is made to more than one, and provision made that in case they disagree another shall decide, that other is called an umpire. The judgment given or determination made by an arbitrator or arbitrators or umpire is termed an award, or, more correctly, that by an umpire, an umpirage. (Tomlin. "Award.")

(*y*) The Head of every county and provisional corporation is the Warden thereof, and of every city and town the Mayor thereof, and of every township and incorporated village the Reeve thereof. (Sec. 65.)

(*z*) It is a common error to look upon a *third* arbitrator as an umpire. The difference between a third arbitrator and an umpire is that the former is appointed *before* the arbitration proceeds, and the latter after the arbitrators have entered upon the reference, and are unable to agree. There are other distinctions between the two unnecessary to be mentioned here. (Harrison's C. L. P. Acts, p. 185.) The appointment of the third arbitrator is by this clause made a condition precedent to the right of the two arbitrators first appointed to act.

county within which the townships are situate, or in case the arbitration is between counties, or between a county and a city or a town, the Governor in Council may appoint an arbitrator for the party or arbitrators in default. (a)

4. In case of an arbitration between a Municipal Corporation and the owners of property to be entered upon, taken or used in the exercise of the powers of the Corporation in regard to roads, streets or other communications, or to drains and sewers, if, after the passing of the by-law, any person interested in the property appoints and gives due notice to the head of the Council of his appointment of an arbitrator to determine the compensation to which such person is entitled, the head of the Council shall, within three days, appoint a second arbitrator, and give notice thereof to the other party, and shall express clearly in the notice what powers the Council intend to exercise with respect to the property (describing it). (b)

In case of exercise of powers as to roads, drains, &c.

5. If within one month after service on the owner or owners of the property, of a copy of any by-law certified to be a true copy under the hand of the Clerk of the Council, the owner or owners omit naming an arbitrator and giving notice thereof as aforesaid, the Council or the head, if authorized by by-law, may name an arbitrator on behalf of the Council, and give notice thereof to the owner or owners of the property, and the latter shall, within seven days thereafter, name an arbitrator on his or their behalf. (c)

If the owner of property fails to name an arbitrator

(a) It is the duty of each party to appoint *one* arbitrator, and give notice thereof in writing to the other party. It is the duty of the two arbitrators so appointed, in ten days after the appointment of the second arbitrator, to appoint a third arbitrator. Default may be made in either particular, and provision is here made therefor. If the arbitration is between townships, the Warden of the county in which the township is situate may appoint the second or third arbitrator, as the case may require; but if the arbitration is between counties, or between a county and a city or a town, the appointment must be made by the Governor in Council.

(b) A difference is to be observed as to arbitrations between municipal councils and arbitrations between a municipal council and individuals. In the latter case the individual appoints his arbitrator, and gives due notice thereof to the Head of the Council. When he does so the Head of the Council is required, within *three* days, to appoint a second arbitrator, and besides to give notice thereof to the individual; in which notice must be clearly expressed "what powers the Council intend to exercise with respect to the property (describing it) belonging to the individual." It is then the duty of the two arbitrators, within *seven* days, to appoint a *third* arbitrator. (Subsecs. 2 and 6.) For *form* of mandamus on the Head of a municipal council to appoint an arbitrator, see *The Queen v. the Council of Perth*, 14 U. C. Q. B. 156.)

(c) The initiative is to be taken by the Council, who are required

Time for
appointing
third arbitra-
tor, and for
award.

6. In either of the cases provided for by the two preceding clauses, the two arbitrators shall within seven days appoint a third arbitrator, and their award shall be made within one month after the appointment. (*d*).

County
Judge to
appoint in
certain cases.

7. If any such owner or occupier neglects naming an arbitrator within seven days after receiving notice to do so, or if the two arbitrators do not within seven days from the appointment of the lastly named of the two arbitrators, agree on a third arbitrator within seven days after the lastly named arbitrator's appointment, or if an arbitrator refuses or neglects to act, the Judge of the county court, on the application of either party, shall nominate as an arbitrator a fit person resident without the limits of the municipality in which the property in question is situate, and such arbitrator shall forthwith proceed to hear and determine the matters referred to him. (*e*)

Appoint-
ments, how
to be made.

8. The appointment of all arbitrators shall be in writing, under the hands of the appointors, or, in case of a corporation, under the corporate seal, and authenticated in like manner as a by-law. (*f*)

to cause to be served on the owner of the land to be affected a copy of the by-law affecting it, certified to be a true copy, under the hand of the Clerk of the Council. Then the initiative as to arbitration is to be taken by the owner so served. It is his duty, within one month after service, to name an arbitrator, and give notice thereof to the Council in the manner prescribed by the last clause. If he allows the month to expire without doing it, then the Council may take the initiative by appointing the first arbitrator, and giving notice of his appointment. If this is done the owner of the land is required, within *seven* days thereafter, to name the second arbitrator. The two so appointed of course name a third arbitrator before proceeding with the reference. (Subsecs. 2 and 6.)

(*d*) The necessity for the appointment of the third arbitrator is explained in the notes to the two preceding clauses. The appointment by this clause is in each case to be made within *seven* days after the appointment of the last of the two arbitrators, and the award must be made within one month after such appointment of the third arbitrator.

(*e*) In this respect also a difference is to be observed between an arbitration between municipal councils and a municipal council and an individual. (See note *a* above.) It is the duty, as we have seen, of the individual, if he has not taken the initiative within *seven* days after notice of the appointment of the first arbitrator by the Council, to appoint a second arbitrator. It is also the duty of the two so appointed, within *seven* days after the appointment of the last of them, to name a third arbitrator. If in either respect there is default made, or if any arbitrator appointed refuses to act, which he may do, or neglects to act, the Judge of the County Court has the nomination of the requisite arbitrator.

(*f*) Every by-law must be under the seal of the Corporation, and

9. The arbitrators on behalf of a Municipal Corporation or Provisional Corporation, shall be appointed by the Council thereof, or by the head thereof if authorized by a by-law of the Council. (*g*)

Head to
appoint for
Corporation.

10. In case there are several persons having distinct interests in property in respect of which the Corporation is desirous of exercising the powers referred to in the above fourth subsection under a by-law in that behalf passed, whether such persons are all interested in the same piece of property or some or one in a part thereof, and some or one in another part thereof, and in case the by-law or any subsequent by-law provides that the claims of all should in the opinion of the Council be disposed of by one award, such persons shall have one calendar month instead of seven days to agree upon and give notice of an arbitrator jointly appointed in their behalf before the County Court Judge shall have power to name an arbitrator for them. (*h*)

Where many
parties are
interested in
the same
property.

11. Every arbitrator, before proceeding to try the matter of the arbitration, shall take and subscribe the following oath (or in case of those who by law affirm, make and subscribe the following affirmation) before any Justice of the Peace. (*i*)

Arbitrators
to be sworn.

“I, A. B., do swear (*or affirm*) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence. So help me God.”

Form.

Which Oath or affirmation shall be filed with the papers of the reference;

be signed by the head, &c., and by the Clerk of the Corporation. (Sec. 188.) The use of the corporate seal in the appointment of an arbitrator, is apparently a new requirement. (See *Wilson v. the Municipal Council of the Town of Port Hope*, 10 U. C. Q. B. 405.)

(*g*) As a rule, arbitrators to represent a Municipal Council must be appointed by that Council: the exception is when the Council by by-law deposes that power to the head of the Council. The language of this section is such, that it might be inferred that under any circumstances the head could name an arbitrator on behalf of the Council, and for this reason attention to this clause is particularly directed. (See subsecs. 4 and 5 above.)

(*h*) Where several persons are interested (as in the opening of a new road, &c.), there may be an arbitration under this act as to each person interested, or, in the option of the Council, an arbitration as to all, and the claims of all be determined by one award. In the latter case, instead of seven days only allowed by subsec. 7 for the appointment of an arbitrator either by an individual or by the County Judge, one month is given.

(*i*) The oath is not only to be taken by *every* arbitrator, but to be taken by him “before proceeding to try the matters of the arbitration.”

Award, to be binding, in certain cases must be adopted by by-law within a certain time.

12. In case the award relates to property to be entered upon, taken or used as mentioned in the said fourth sub-section, and in case the by-law did not authorize or profess to authorize any entry or use to be made of the property before an award had been made except for the purpose of survey, or in case the by-law did give or profess to give such authority, but the arbitrators find that such authority had not been acted upon, the award shall not be binding on the Corporation unless it is adopted by By-law within six weeks after the making of the award; and if the same is not so adopted, the original By-law shall be deemed to be repealed, and the property shall stand as if no such By-law had been made, and the Corporation shall pay the costs of the arbitration; (j)

Notes of the evidence adduced to be taken and filed in certain cases.

13. In the case of any award under this Act which does not require adoption by the Council, or in case of any award to which a Municipal Corporation is a party and which is to be made in pursuance of a submission containing an agreement that the present sub-section of this Act should apply thereto, the arbitrator or arbitrators shall take, and immediately after the making of the award shall file with the Clerk of the Council for the inspection of all parties interested, full notes of the oral evidence given on the reference, and also all documentary evidence or a copy thereof, and in case they proceed partly on a view or any knowledge or skill possessed by themselves or by any of them, they shall also put in writing a statement thereof sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto; (k)

The oath besides is not only to be taken, but subscribed. When taken and subscribed, it is to be filed with the papers of the reference.

(j) A Municipal Corporation has by statute certain powers in regard to roads, streets and other communications, and to drains and sewers, which powers are exercisable by by-law. Any award made in reference thereto, is dependent on the adoption of the award by by-law within six weeks after its making; and the original by-law is also made dependent on the passing of such second by-law. The award is not to be binding on the Corporation unless within the time limited for the purpose it is adopted by the Council. If not so adopted, the original by-law is to be deemed repealed. In this event, the Corporation is to pay the costs of the arbitration.

(k) Awards other than those described in the last note do not require adoption by the Council to render them valid. When an award not requiring such adoption, or an award to which this clause is by the submission applicable, is made, the arbitrator or arbitrators are required to do what this clause directs.

14. Every award made under this Act shall be in writing under the hands of all or two of the arbitrators and shall be subject to the jurisdiction of any of the Superior Courts of Law or Equity as if made on a submission by a Bond containing an agreement for making the submission a rule or order of such Court. (l) And in the cases provided for by the last preceding sub-section, the Court shall consider not only the legality of the award but the merits as they appear from the proceedings so filed as aforesaid, and may call for additional evidence to be taken in any manner the Court directs, and may, either without taking such evidence or after taking such evidence, set aside the award, or remit the matters referred or any of them from time to time to the consideration and determination of the same arbitrators, or to any other person or persons whom the Court may appoint as prescribed in the "Common Law Procedure Act, 1856," and fix the time within which such further or new award shall be made, (m) or the Court may itself increase or diminish the amount awarded or otherwise modify the award, as the justice of the case may seem to the Court to require. (n)

Award to be made by at least two arbitrators, and subject to Superior Courts.

Powers of the Courts in such matters.

(l) Hitherto there were two kinds of submission that might be made a rule of court; first, references by rule of court, judge's order, order of Nisi Prius; secondly, submissions in writing, by virtue of the statute 9 & 10 Wm. III., where they contain an agreement to the effect that they may be made rules of court. (Watson on Awards, 3 Edn. 45.) These were much extended by the Common Law Procedure Act, 1856, which enacts that "every agreement or submission, whether by deed or instrument not under seal, may be made a rule of one of the superior courts of law or equity in Upper Canada, on the application of any party thereto, unless such agreement or submission contain words purporting that the parties intend that it should *not* be made a rule of court," &c. (Sec. 97.) The effect of the clause here annotated is to place submissions under this act on the same footing as any of the foregoing described submissions. The effect of making every award under this act subject to the jurisdiction of any of the superior courts of law or equity, as if made on a submission by a bond containing an agreement for making the submission a rule or order of such case, appears to be to bring all such submissions under the statute of 9 & 10 Wm. III. The effect thereof is to give the courts power to review the awards, and if necessary enforce the performance of them by process of attachment. (See notes to Harrison's C. L. P. Acts, p. 174.)

(m) As to setting aside awards, see Harrison's C. L. P. Acts, p. 175 *et seq.*; and as to remitting, see same work, notes to p. 178.

(n) This is a most important provision. It enables the courts to do complete justice between the parties. The power to increase or diminish the amount awarded, is one necessary to this end; and the power being not only to increase or diminish the amount awarded, but "*otherwise to modify it*," is, it is believed, extensive enough to enable

POUNDS AND POUND-KEEPERS.

By-laws as to
Pounds and
cruelty to
animals.

337.—The Council of every township, town, city, and incorporated village (*o*), may respectively pass by-laws (*p*) (not being inconsistent with any statute relating to pounds or cruelty to animals) (*q*):

PROVIDING POUNDS.

Pounds to be
provided.

1. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the Pound-keeper to impound. (*r*)

ANIMALS RUNNING AT LARGE.

Animals
running at
large.

2. For restraining or regulating the running at large of any animals, and providing for impounding them, and for causing them to be sold in case they are not claimed within a reasonable time, or in case the damages, fines and expenses are not paid according to law. (*s*)

Appraising
damages
done by.

3. For appraising the damages to be paid by the owners of animals impounded for trespassing contrary to the laws of Upper Canada or of the municipality. (*t*)

the court to impose conditions or do whatever right and justice demand.

(*o*) Counties not included, and yet County Councils are authorized to appoint pound-keepers. (Sec. 242, subsec. 2.)

(*p*) *By-laws.*—See note *v* to sec. 186.

(*q*) The two statutes referring to pounds and cruelty to animals are 1 Vic. cap. 21, sec. 35, and 20 Vic. cap. 31; both of which are in subsequent notes to this section more fully noticed.

(*r*) It was by statute 1 Vic. cap. 21, sec. 32 (now repealed), enacted that it should be the duty of any Pound-keeper appointed under the provisions of that act to provide himself with sufficient works or enclosures for the safe keeping of all such animals as it might be his duty to impound. By the clause under consideration, the Municipal Council of the several municipalities described is empowered to pass by-laws for providing such yards or enclosures.

(*s*) The 1 Vic. cap. 21, sec. 32 (now repealed), made it the duty of the Pound-keeper to impound all animals running at large, trespassing and doing damage, that might be delivered to him by any person resident within his division; and if not claimed or redeemed by the owners within periods limited for the purpose, to sell the same. Such is still the duty of the Pound-keeper. (Sec. 338, subsec. 1.)

(*t*) The 35th section of 1 Vic. cap. 21, which is still unrepealed, enacts that it shall be the duty of the Pound-keeper, when the owner of any animal impounded shall object to the amount of damages claimed, within forty-eight hours after the same has been impounded, to notify three disinterested resident freeholders or householders, farmers in the township, to appraise the damages, and also to judge of the sufficiency of the fence enclosing the grounds wherein such animals were found doing damage, &c.;—*Qu.*, if not superseded by sec. 338, subsec. 17, 18 and 19.

4. For determining the compensation to be allowed for services rendered, in carrying out the provisions of this Act with respect to animals impounded or distrained and detained in the possession of the distrainer. (*u*)

GENERAL PROVISIONS.

338.—Until varied or other provisions are made by Act of Parliament, or by By-laws of the Municipality, (*v*) the following regulations shall be in force :

Regulations for the government of Pound-keepers.

1. If not previously replevied, the Pound Keeper shall impound any horse, bull, ox, cow, sheep, goat, pig, or other cattle, or any poultry, distrained for unlawfully running at large, or for trespassing and doing damage, delivered to him for that purpose by any person resident within his division who has distrained the same; (*w*)

What animals to be impounded.

2. When the common Pound of the Municipality or place wherein distress has been made is not secure, the Pound Keeper may confine the animal in any inclosed place within the limits of the Pound-keeper's division, within which the distress was made; (*x*)

When the common Pound is not safe.

(*u*) As to the duty of every Pound-keeper to supply animals impounded with food, &c., and the provision made for reimbursing him the cost thereof, see 20 Vic. cap. 31, sec. 2.

(*v*) As already explained, the whole of the former act, 1 Vic. cap. 21, with the exception of sec. 35, is repealed. (See notes to sec. 337.)

(*w*) It has been held that a master is liable for the acts of his farm servant in impounding cattle in his absence, the servant acting within the scope of his authority. (*Spafford v. Hubble*, M. S. Easter Term, 7 Wm. IV.; *Robinson & Harrison's Digest*, p. 294.) In trespass against two defendants for seizing and taking cattle, one defendant justified as pound-keeper, and because the cattle were in the close of A., wrongfully trespassing in said close, and eating grass and corn therein, A. took the said cattle, and delivered them to the defendant as a pound-keeper within his jurisdiction, and the defendant impounded and afterwards sold them according to law; and the other defendant justified the seizure by the pound-keeper, as in the other plea, and the sale by him, and that the defendant bought the cattle as the highest bidder; to both of which pleas there was a general demurrer. Held that the plea by the pound-keeper was bad, as it did not show that he received the cattle from a person *within his division*, or that the close *was so situate*, and that the plea of the purchaser was good, as he could not be held liable to the plaintiff in trespass. (*Clarke v. Durham et al*, M. S. Easter Term, 3 Vic. *Robinson and Harrison's Digest*, p. 431.) In a plea of justification by a pound-keeper for taking a pig, when the justification was that the pig contrary to township regulations broke through a lawful fence, it was held necessary to allege that the fence was within that township, and to show the close in which the pig was trespassing at the time. (*Carey v. Tate*, 6 U. C. O. S. 147.)

(*z*) It would seem that the animal must be impounded with the

Statement of demand to be made to Pound-keeper by impounder. 3. The person distraining and impounding the animal shall, at the time or within twenty-four hours thereafter, deliver to the Pound-keeper duplicate statements in writing of his demands against the owner for damages (if any), not exceeding twenty dollars, done by such animal. (*y*) And shall at the same time give his written agreement under seal (with a surety if required by the Pound Keeper) which agreement may be after the form following, or in words to the same effect: (*z*)

Form of agreement with Pound-keeper. I, (*or we, as the case may be*), do hereby agree that I, (*or we*) will pay to the owner of the (*describing the animal*) by me (A. B.) this day impounded, all costs to which the said owner may be put in case the distress by me the said A. B. proves to be illegal, or in case the claim for damages now put in by me the said A. B. fails to be established;

If the animal be of a certain kind. 4. In case the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if the same is distrained by a resident of the Township for straying within his premises such person, instead of delivering the animal to a Pound Keeper, may retain the animal in his own possession, provided he makes no claim for damages done by the animal, and only gives the notices hereinafter in that case required of him; (*a*)

If the owner be known. 5. If the owner is known to him, he shall forthwith give to the owner notice in writing of having taken up the animal; (*b*)

If unknown, notice to Township Clerk. 6. If the owner is not known to the person taking up and retaining possession of the animal, such person shall, within forty-eight hours, deliver to the Township Clerk a notice in writing of having taken up the animal, and containing a description of the color, age and natural and artificial marks of the animal, as near as may be; (*c*)

pound-keeper of the division within which it is distrained, and the Municipal Council may provide sufficient yards and enclosures for the purpose. (Sec. 337, subsec. 1.) If not sufficient, this clause enables the pound-keeper "to confine the animal in any enclosed place within the limits of the pound-keeper's division, &c."

(*y*) As to the determination of the demand, &c., see subsec. 17 *et seq.* of this section.

(*z*) This is to ensure perfect good faith, and to make men cautious when distraining on the property of others.

(*a*) This is a new provision. It enables the distrainer to impound the animal on his own premises, or elsewhere than in the public pound. This he can only do provided he makes no claim for damage done by the animal, and duly gives the requisite notice.

(*b*) As to the meaning of the word "forthwith," see note *k* to sec. 122.

(*c*) Where the owner is known, notice is forthwith to be given to

7. The Township Clerk, on receiving this notice, shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post the notice he receives, or a copy thereof, in some conspicuous place on or near the door of his office, and continue the same so posted for at least one week, unless the animal is sooner claimed by the owner; (d)

Duty of Clerk thereon.

8. If the animal or any number of animals taken up at the same time, is or are of the value of ten dollaas or more, the distrainer shall cause a copy of the notice to be published in a Newspaper in the County, if one is published therein, and if not, then in a Newspaper published in an adjoining County, and to be continued therein once a week for three successive weeks; (e)

If the animals are worth ten dollars or over.

9. In case an animal is impounded, notices for the sale thereof shall be given by the Pound Keeper or person who impounded the animal within forty-eight hours afterwards, but no pig or poultry shall be sold till after four clear days, nor any horse or other cattle till after eight clear days from the time of impounding the same; (f)

Notice of sale.

When sale may be made.

10. In case the animal is not impounded but is retained in the possession of the party distraining the same, if the animal is a pig, goat, or sheep, the notices for the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is taken up; (g)

If animal is not impounded, but detained.

him. When not known, the notice is within 48 hours to be delivered for him to the township clerk.

(d) The duty of the Clerk, when he receives the notice, is here well defined. It is—

1. To enter a copy thereof in a book to be kept by him for that purpose.
2. To post the notice, or a copy of it, in some conspicuous place, &c.
3. To continue the same so posted for at least one week, &c.

(e) This is to be done by the Clerk, in addition to the duties required of him by the preceding clause.

(f) The notice of sale is to be given within a time limited, but the sale is not to take place sooner than a specified period. No matter of what description the animal impounded is, notice of sale is to be given within forty-eight hours after the impounding; but no pigs or poultry are to be sold in less than four clear days, and no horse or other cattle in less than eight clear days.

(g) Whenever horses, bulls, oxen, cows, sheep, goats, or other cattle, are distrained by a resident of a township for straying in his premises, instead of delivering the animals to a Pound-keeper, such person may retain them in his own possession. (Subsec. 4.) If he does so, the times appointed for sale are to be extended to the periods

Notice of
sale, unless
redeemed.

11. The notices of sale may be written or printed and shall be affixed and continued for three clear successive days, in three public places in the Municipality, and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law (if any), the amount of the injury (if any) claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the Pound Keeper, and also of the fence-viewers (if any); and the expenses of the animal's keeping; (*h*)

Keeper to
feed im-
pounded
cattle.

12. Every Pound Keeper, and every person who impounds or confines, or causes to be impounded or confined, any animal in any common, open or close Pound, or in any inclosed place, shall daily furnish the animal with good and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined: (*i*)

And may
recover the
value.

13. Every such person who furnishes the animal with food, water, and shelter, may recover the value thereof from the owner of the animal, and also a reasonable allowance for his time, trouble and attendance in the premises; (*j*)

In what
manner such
value may
be recovered.

14. The value or allowance as aforesaid may be recovered with costs, by summary proceeding before any Justice of the Peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties or forfeitures for the breach of any by-law of the Municipality may by by-law be recovered and enforced by a single Justice of the Peace; (*k*) and the Justice shall ascertain and determine the amount of such

mentioned in the clause here annotated. The "months" intended are calendar months. (12 Vic. cap. 10, sec. 5, subsec. 8.)

(*h*) Before being allowed to redeem, the owner may be required to pay—

1. The penalty imposed by law (if any).
2. The amount of the injury (if any).
3. The lawful fees and charges of the pound-keeper.
4. Also of the fence viewers (if any).
5. The expenses of the animal's keeping.

(*i*) See also stat. 20 Vic. cap. 31, sec. 2.

(*j*) It is enacted that not only the pound-keeper, but "every person who impounds or confines, or causes to be impounded or confined, any animal, &c., shall daily furnish the animal with good and sufficient food, &c. (subsec. 12); and, by the clause here annotated, that every such person, &c., may recover the value thereof, and also a reasonable allowance for his time, trouble and attendance in the premises.

(*k*) See sec. 203 *et seq.*

value and allowance when not otherwise fixed by law, adhering so far as applicable, to the tariff of Pound Keepers' fees and charges that may be established by the By-laws of the Municipality; (*l*)

15. The Pound Keeper, or person entitled so to proceed, may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereafter mentioned; (*m*)

Other mode
of enforcing.

16. In case it is proved by affidavit in writing, before one of the Justices aforesaid, to his satisfaction, that all the proper notices were duly affixed and published in the manner and for the respective times above prescribed, then if the owner or some one for him does not within the time specified in the notices, or before the sale of the animal, replevy or redeem the same in manner aforesaid, the Pound Keeper who impounded the animal, or if the person who took up the animal did not deliver such animal to any Pound-keeper but retained the same in his own possession, then, any Pound-keeper of the Township, shall publicly sell the animal to the highest bidder, at the time and place mentioned in the aforesaid notices, and shall, after deducting the penalty and the damages (if any) and fees and charges aforesaid, apply the produce in discharge of the value of the food and nourishment, loss of time, trouble and attendance, so supplied as aforesaid, and the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending the same, or incidental thereto, and the damage when legally claimable not exceeding twenty dollars, to be ascertained as aforesaid, done by the animal to the property of the person at whose suit the same was distrained, and return the surplus (if any) to the original owner of the animal; or if not claimed by him within three months after the sale, the Pound Keeper shall pay such surplus to the Treasurer or Chamberlain of and for the use of the Municipality; (*n*)

Sale, how
effected, &c.,
and purchase
money, how
applied.

17. If the owner, within forty-eight hours after the delivery of such statements, as provided in the third sub-section of this clause, disputes the amount of the damages so claimed,

Disputes
regarding
such
demand, how
determined.

(*l*) It is, it will be observed, made the duty of the Justice to *ascertain* and *determine* the amount of such value and allowance, when not otherwise fixed by law.

(*m*) The option is given to the pound-keeper, &c., entitled to proceed either under the preceding clause or in the manner hereinafter directed.

(*n*) See note *w* to clause 1 of this section, p. 201.

the amount shall be decided by the majority of three fence-viewers of the Municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the Pound Keeper; (o)

Fence-viewers to view and appraise damage.

18. Such fence-viewers, or any two of them shall, within twenty-four hours after notice of their appointment as aforesaid, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the Statutes or By-laws in that behalf at the time of the trespass; and if it was, then they shall appraise the damages committed, and, within twenty-four hours after having made the view, deliver to the Pound Keeper a written statement signed by at least two of them of their appraisalment, and of their lawful fees and charges: (p)

Penalty for neglect of duty by viewers.

19. Any fence-viewer neglecting his duty as arbitrator as aforesaid, shall incur a penalty of two dollars, to be recovered for the use of the Municipality, by summary proceeding before a Justice of the Peace, upon the complaint of the party aggrieved, or the Treasurer or Chamberlain of the Municipality; (q)

Proceedings where viewers decide against the legality of a fence.

20. If the fence-viewers decide that the fence was not a lawful fence, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the Pound Keeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner, if claimed before the sale thereof, but if not claimed, or if such fees and charges are not paid, the Pound Keeper, after due notice, as

(o) This varies from the mode prescribed by sec. 35 of 1 Vic. cap. 21. (See note *t* to sec. 337, p. 200.)

(p) The duties of fence viewers, under this clause, may be enumerated thus:

1. To view the fence, &c., within 24 hours after notice of appointment.
2. To determine whether or not the fence was a lawful one, &c.
3. To appraise the damages committed (if fence lawful).
4. To deliver to the pound-keeper, within 24 hours after view, a written statement of appraisalment, &c.

(q) There are to be in each case of dispute three fence-viewers chosen—one by the owner of the animal, one by the person distraining or claiming damages, and the third by the Pound-keeper. (Subsec. 17.) Apparently no fence-viewer so chosen has a right to decline acting, but on the contrary it is his duty to act. A neglect of duty is to be visited with the penalty inflicted by the clause under consideration.

required by this Act, shall sell the animal in the manner before mentioned, at the time and place appointed in the notices; (*r*)

21. In case any Pound Keeper or person who impounds or confines, or causes to be impounded or confined, any animal as aforesaid, refuses or neglects to find, provide, and supply such good and sufficient food, water, and shelter to the animal, he shall, for every day during which he so refuses or neglects, forfeit a sum not less than one dollar nor more than four dollars, which shall be recoverable by proceeding before any Justice of the Peace; (*s*)

Liability of Pound-keeper refusing to feed animal impounded.

22. Every fine and penalty, imposed by this Act, may be recovered and enforced, with costs, by summary conviction, under the Summary Convictions Act, before any Justice of the Peace of the County, or of the Municipality, in which the offence was committed; and, in default of payment, the offender may be committed to the Common Goal, House of Correction, or Lock-up House of such County or Municipality, there to be imprisoned for any time, in the discretion of the convicting and committing Justice, not exceeding fourteen days, unless such fine and penalty, and costs, including the costs of said committal, be sooner paid; (*t*)

Recovery and enforcement of penalties.

Imprisonment in default of payment.

23. Upon the hearing of any information or complaint exhibited or made under this Act, any person giving or making the information or complaint, and any other person shall be a competent witness, notwithstanding such person may be entitled to any part of the pecuniary penalty on the conviction of the offender; (*u*)

Who may be a witness.

24. When not otherwise provided, every pecuniary penalty recovered before any Justice of the Peace under this Act shall be paid and distributed in the following manner: one moiety to the City, Town, Village or Township, in which the offence was committed, and the other moiety thereof, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the Justice may seem proper. (*v*)

Application of penalties.

(*r*) Though the fence-viewers decide that the fence is not a lawful fence, if the owner neglects, within the time limited, to claim the animal, or if the fees are not paid, the animal may still be sold.

(*s*) Such is also the penalty for the like offence imposed by sec. 3 of 20 Vic. cap. 31.

(*t*) See the 16 Vic. cap. 178.

(*u*) In terms similar to sec. 13 of 20 Vic. cap. 31.

(*v*) Much the same as the distribution directed by sec. 12 of same statute.

ADMINISTRATION OF JUSTICE AND MATTERS OF POLICE.

CITIES TO BE COUNTIES, &c.

In what respects Cities to be Counties.

339.—Every city shall be a county of itself for Municipal purposes, and for such Judicial purposes as are herein specially provided for in the case of all cities, but for no other. (*w*)

JUSTICES OF THE PEACE.

Heads of Councils, Mayors and Reeves to be Justices of the Peace.

340.—The Head of every Council, the Aldermen of a City, the Justices of the Peace and the Reeve of every Town, and the Deputy Reeve of every Township, Town and Incorporated Village, shall *ex officio* be Justices of the Peace for the whole County or union of Counties in which their respective Municipalities lie, (*x*) and shall not be disqualified by being an Attorney, Solicitor or Coroner. (*y*)

Qualification and oaths of Councillors as Justices of the Peace, when dispensed with.

341.—Justices of the Peace for any town, (*z*) shall have the same property qualification and take the same oaths as other Justices of the Peace, (*a*) but no Warden, Mayor, Re-

(*w*) Towns separated under sec 26, would in some measure partake of the character as cities. Cities, though forming parts of the counties in which situate, in point of territorial division do not do so for municipal purposes, nor for the purposes of representation in the Legislative Assembly. (See 14 & 15 Vic. cap. 5, and 16 Vic. cap. 152.) Towns not separated under sec. 26 and incorporated villages, though separate municipalities like townships, form territorially portions of the counties in which situate, as well as for some municipal purposes, so far as the jurisdiction of the County Councils extend; and also for judicial purposes. So cities with regard to the Assizes, the jurisdiction of the Superior Courts, and in some respects of the County Courts, form portions of the counties in which situate (but see sec. 368), but not as regards the Quarter Sessions; which Courts, though empowered to hold their sessions in the cities, possess no jurisdiction therein.

(*x*) This section illustrates the remarks made in the last note. It confers jurisdiction upon City Magistrates, &c., co-equal to the whole county or union of counties in which their respective municipalities are situate; but County Magistrates are deprived of jurisdiction in cities. (Sec. 343.)

(*y*) As are such persons from being justices by commission. (See 6 Vic. cap. 3, secs. 2 and 16.)

(*z*) The Crown may appoint Justices of the Peace for a town (sec. 344); and it does not appear that Justices so appointed would have any jurisdiction beyond the limits of the town. (*Ib.*)

(*a*) A Justice of the Peace, not being *ex officio* such, is required to have in his actual possession, to and for his own use and benefit, real estate, either in free and common soccage, &c., for life, or lease for one or more lives, or originally created for a term not less than 21

order, Police Magistrate, Alderman, Reeve, or Deputy Reeve, after taking the oaths or making the declarations as such shall require to have any property qualification or to take any further oath to enable him to act as a Justice of the Peace. (b)

342.—When a Town has been erected into a City, (c) and the Council of the City duly organized, (d) every Commission of the Peace theretofore issued for the Town, shall cease. (e)

When Towns become Cities, former Commissions of Peace to cease.

343.—Justices of the Peace for a County in which a City lies shall as such have no jurisdiction over offences committed in the City, and the warrants of County Justices shall require to be endorsed before being executed in a City in the same manner as required by law when to be executed in a separate County. (f) But the general and adjourned Quarter Sessions of the Peace for the County may be held and the jurisdiction thereof exercised within the City. (g)

County Justices to have no jurisdiction in Cities, but Quarter Sessions may be held therein.

344.—Nothing herein contained shall limit the power of the Governor to appoint under the Great Seal of the Province any number of Justices of the Peace for a Town, (h) or shall

Governor may appoint Justices of the Peace for Towns.

years, or by usufructory possession for his life in lands, &c., in the Province, of or above the value of £300, over and above incumbrances, and over and above all rents and charges payable out of and affecting the same. (6 Vic. cap. 3, sec. 3.) The oath of qualification is in substance the same, and the form of it is given in sec. 3 of 6 Vic. cap. 3.

(b) See sec. 175 *et seq.*

(c) Which may be done pursuant to sec. 15.

(d) See sec. 115.

(e) A power to issue a commission appointing Justices for a city, though not expressly recognized as in the case of towns (sec. 344), seems to be implied. At all events, the Mayor and Aldermen of a city are *ex officio* Justices of the Peace for such city. (Sec. 340, and sec. 344 note h.)

(f) For the purposes specified in this section, every city is a county in itself. (Sec. 339.)

(g) The jurisdiction may be exercised "within" but not over the city. Courts of Quarter Sessions may sit, issue process, try causes, and transact all other business within a city, but they have no authority to try offences committed in the city. In cities, the Recorder's Courts are substitutes for Quarter Sessions. (Sec. 348.)

(h) The common law has ever had a special regard for the conservation of the peace; for peace is the very end and foundation of civil law. The Queen is by her office and dignity royal the principal conservator of the peace within all her dominions, and may by prerogative give authority to any other to see the peace kept, and punish

Jurisdiction
of County
Justices in
Towns.

interfere with the jurisdiction of Justices of the Peace for the County in which a Town is situate over offences committed in the Town except only so far as respects offences against the By-laws of the Town and penalties for refusal to accept or be sworn into office (*i*) in the Town as to which jurisdiction shall be exercised exclusively by the Police Magistrate or Mayor or Justices of the Peace for the Town. (*j*)

Mayor may
call out
Posse.

345.—The Mayor of any City or Town may call out the Posse to enforce the law within his Municipality, should exigencies require it, but only under the same circumstances in which the Sheriff of a County may now by law do so. (*k*)

Powers of
heads of
Councils to
administer
oaths.

346.—The Head of every Council, or in his absence the Chairman thereof, may administer an oath or affirmation to any person concerning any account or other matter submitted to the Council. (*l*)

those who break it. She is also the fountain of justice, and in right of both these prerogatives has from a very early period exercised the power of appointing Justices of the Peace by commission. (Lamb, 35, 43.)

(*i*) Instead of "sworn," the expression should be "make the declaration of office and of qualification," or shortly "to accept or make the declaration of office, &c." (See sec. 175 *et seq.*)

(*j*) County Justices retain a general jurisdiction over towns situated within their county or union of counties, subject to the special exceptions stated in this section.

(*k*) "*Posse Comitatus*" or power of the county, according to Lambard, includes the aid of and attendance of every person above the age of fifteen, within the county. Persons able to travel are required to be assistant in this service. It is used where a riot is committed, a possession is kept on a forcible entry, or any force or rescue made, contrary to the Queen's writ or in opposition to the execution of justice. The power is usually summoned by the Sheriff. But with respect to writs that issue in the first instance to arrest in civil suits, the Sheriff is not bound to take the posse to assist him in the execution of them,—though he may do so if he pleases, on forcible resistance to the execution of the process. Sheriffs, &c., are to be assisting Justices of the Peace in suppressing riots, &c., and raise the posse by charging any number of men to attend for that purpose, who may take with them such weapons as shall be necessary, and they may justify the beating and even killing such rioters as resist or refuse to surrender; and persons refusing to assist in the posse may be fined and imprisoned. It is lawful for a peace officer to assemble a competent number of people and sufficient power to suppress rebels, rioters, &c., but there must be great caution, lest under a pretence of keeping the peace, the peace officer cause a breach of it; and sheriffs, &c., are punishable for using heedless violence, or alarming the country in these cases, without just ground. (See Tomlin. Law Dig. "*Posse Comitatus*;" Watson's Office of Sheriff, 2 Edin. 2, 73, 193.)

(*l*) Such is also the substance of the provision contained in sec. 181 of this act.

POLICE OFFICE.

347.—The Council of every Town and City shall establish therein a Police Office; and the Police Magistrate, or in his absence, or where there is no Police Magistrate, the Mayor of the Town or City, shall attend at such Police Office daily, or at such times and for such period as may be necessary for the disposal of the business brought before him as a Justice of the Peace; and any Justice of the Peace having jurisdiction in a Town may, at the request of the Mayor thereof, act in his stead at the Police Office; (*m*) but, except in cases of urgent necessity, no attendance is required on Sunday, Christmas Day, or Good Friday, or any day appointed by Proclamation for a Public Fast or Thanksgiving. (*n*)

Police officers
in Cities and
Towns.

RECORDER'S COURTS AND POLICE MAGISTRATES.

RECORDER'S COURT.

348.—There shall be in every City a Court of Record to be called the Recorder's Court of the City; and therein the Recorder alone, or assisted by one or more of the Aldermen, shall preside; or in the absence of the Recorder, or when there is no Recorder, the Mayor (and in his absence, one of the Aldermen elected by themselves), assisted by one or more Aldermen, shall preside; (*o*) and the Court shall, as to crimes and offences committed in the City, and as to matters of civil concern therein, have the same jurisdiction and powers and use the like process and proceedings as Courts of Quarter Sessions of the Peace in Counties. (*p*)

Recorder's
Court in
Cities.

Jurisdiction
of.

(*m*) The establishment of a Police Office appears to be obligatory, but the appointment of a Police Magistrate is otherwise. (Sec. 352.)

(*n*) The urgency of each case, as to whether it amounts to a necessity or not, must in the first instance be determined by the Police Magistrate, &c.

(*o*) This section dispenses with the necessary attendance of an Alderman, hitherto required, to form a Recorder's Court. The Recorder or Mayor is authorized to act alone; but in their absence, the presence of two Aldermen is required, viz., one elected by the Aldermen and one or more of the remaining Aldermen.

(*p*) There are three different kinds of Sessions holden by Justices of the Peace: 1. General Sessions, which may be holden at any time of the year, for the general execution of the authority of Justices. 2. The General Quarter Sessions, which are holden at stated times in the four quarters of the year, as appointed by statute 20 Vic. cap. 58, sec. 16. 3. A special or Petty Sessions, which is holden on any special occasion, for the execution of some particular branch of the authority of the Justice. (See 2 Hawk. P. C. cap. 8, sec. 47.) The second, or "Court of Quarter Sessions of the Peace," is the one mentioned in this section. Its jurisdiction, by statute 34 Edw. 3, cap. 1,

RECORDERS AND POLICE MAGISTRATES.

Recorder,
qualification
of.

349.—The Recorder shall be a barrister of Upper Canada, of not less than five years' standing. (*g*)

Salary of Re-
corder.

350.—Every Recorder shall receive a salary of not less than two hundred and fifty pounds (*r*), and his salary shall be defrayed from and out of the fee fund from which the salaries of County Judges are defrayed. (*s*)

Salary of
Police Magis-
trate.

351.—Every Police Magistrate shall receive a salary of not less than one hundred pounds per annum, to be fixed by, and to be paid quarterly by the Council. (*t*)

When Recorder
or Police
Magistrate
to be
appointed.

352.—A Recorder or a Police Magistrate shall not in the first instance be appointed for any municipality, until the Council thereof communicates to the Governor its opinion that such an officer is required. (*u*)

extends to the trying and determining all felonies and trespasses whatsoever, though they seldom if ever try any capital offences; their commissions providing that if any case of difficulty arises, they shall not proceed to judgment but in the presence of one of the judges of the Court of Queen's Bench or Common Pleas, or one of the judges of Assize. And therefore murders and other capital offences are usually remitted for a more solemn trial to the assizes. The Quarter Sessions have cognizance of all offences which tend to a breach of the peace, except forgery and perjury. (*The King v. Higgins*, 2 East. 18.) The general words in the commission of the peace, "including all trespasses," comprehend not only direct breaches of the peace, but also all such offences as have a tendency thereto. And on this ground conspiracies and libels, or any illegal solicitations, attempts or endeavours to commit crimes, have been holden to be cognizable by Quarter Sessions. (*The King v. Higgins*, 2 East. 23; *The King v. Summers*, 3 Salk. 194; *The King v. Respal*, 3 Burr. 1320.) They cannot take cognizance of forgery as a cheat, but over other cheats in general their jurisdiction is undoubted. (*The King v. Gibbs*, 1 East. 173.) The sessions cannot try any newly created offence, without express power given them by the statute which creates it. (*Roop v. Scritch*, 4 Mod. 379; *The Queen v. Yarrington*, 1 Salk. 406.) See further, as to the jurisdiction of Quarter Sessions generally, Archbold's Sessions' Practice, p. 1, *et seq.*, and Prov. Stat. 7 Wm. IV. cap. 4.

(*g*) Barristers of Lower Canada may become barristers of Upper Canada (13 & 14 Vic. cap. 26); so barristers of her Majesty's courts in England, Scotland or Ireland, &c. (20 Vic. cap. 63, sec. 5).

(*r*) The minimum, though not the maximum salary, it will be observed, is here given.

(*s*) See 8 Vic. cap. 13, sec. 61; 13 & 14 Vic. cap. 53, secs. 12, 13, 15, 110; 16 Vic. cap. 163, sec. 4; and 20 Vic. cap. 59, sec. 15.

(*t*) The Court of Common Pleas has decided that a Police Magistrate may maintain an action of debt for his salary against the Municipal Corporation. (*Wilkes v. the Town Council of Brantford*, 3 U. C. G. P. 470.)

353.—Every Recorder and Police Magistrate shall be appointed by the Crown, and shall hold office during the pleasure of the Crown (*v*), and shall *ex officio* be a Justice of the Peace for the city or town for which he holds office, as well as for the county in which the city or town is situate. (*w*)

To be appointed by the Crown.

THE CLERK.

354.—The Clerk of the Council of every City or Town, or such other person as the Council of the City or Town may appoint for that purpose, shall be the Clerk of the Police Office, thereof, and perform the same duties and receive the same emoluments as Clerks of Justices of the Peace, and the City Clerk, or such other person as the Council of the City may appoint for that purpose, shall also be Clerk of the Recorder's Court, and shall perform the same duties and receive the same emoluments as Clerks of the Peace; and in case the said Clerk or other person is paid by a fixed salary, the said emoluments shall be paid by him to the municipality, and form part of its funds. (*x*)

Clerk of Recorder's Court and Police Office.

SESSIONS OF RECORDER'S COURT.

355.—The Recorder's Court shall hold four sessions in every year, and such sessions shall commence on the second Monday in January, and on the first Monday in the months of April, July and November (*y*)

Sessions of Recorder's Court.

(*u*) The power to appoint a Recorder, or a Police Magistrate, rests with the Executive (sec. 353), but is not to be exercised until invoked by the Municipal Council of the municipality that requires the appointment.

(*v*) Words authorizing the appointment of any public officer or functionary, &c., are construed to include the power of removing him, re-appointing him, or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested. (12 Vic. cap. 10, sec. 5, subsec. 22.)

(*w*) It is not stated that any property qualification is requisite, and it is presumed that none is necessary. (See sec. 341, as to *ex officio* Justices of the Peace.)

(*x*) The appointment of Police Clerks and Clerks of Recorder's Courts rests with the Municipal Councils. The Clerk of each Council is to act *ex officio* in the absence of any other appointment. Whether he acts *ex officio* or is appointed to act, if in receipt of a fixed salary as Clerk of the Council, the fees appertaining to his office as Clerk, either of the Police or Recorder's Court, are to be paid by him to the Municipality and form part of its funds.

(*y*) Though the Recorder's Court has, as to crimes and offences committed in the city, &c., the same jurisdiction and powers, and uses the like process and proceedings as Courts of Quarter Sessions (sec. 348), the days for the sittings or sessions differ. For Quarter Sessions the days are the second Tuesday in the months of March, June, September and December. (20 Vic. cap. 58, sec. 16.)

Jurors.

356.—The panels of grand jurors shall consist of twenty-four persons, and the panels of the petit jurors of not less than thirty-six nor more than sixty persons; and all such persons shall be residents of the city (*z*), selected to serve as jurors under the laws relating to jurors. (*a*)

High Bailiff to summon.

357.—The High Bailiff of a city, not made a separate county for all purposes (*b*), shall ballot for and summon the jurors under a precept signed by the Recorder, or by the Mayor, or the alderman elected to act in the Recorder's place, in the manner appointed by the laws relating to jurors. (*c*)

Costs of persons acquitted of misdemeanor.

358.—On the acquittal of any person tried for misdemeanor in a Recorder's Court (*d*), the presiding officer (*e*) shall, if the court is satisfied that there was reasonable and probable cause for the prosecution, order the costs thereof to be taxed by the Clerk and to be paid out of the city funds. (*f*)

EXPENSES OF RECORDER'S COURT.

Expenses of criminal justice in Recorder's Court how paid.

359.—The expenses of the administration of justice in criminal cases in the Recorder's Court, shall be defrayed out of the Consolidated Revenue Fund, in like manner and to the like extent as the expenses attending the administration of justice in criminal cases in the several Courts of Quarter Sessions in Upper Canada. (*g*)

INVESTIGATIONS BY RECORDER UNDER RESOLUTION OF CITY COUNCIL.

Investigation by Recorder of charges of malfeasance.

360.—In case the Council of any City at any time passes a resolution (*h*) requesting the Recorder of the City to investigate any matter to be mentioned in the resolution and relating to a supposed malfeasance, breach of trust or other misconduct on the part of any member of the Council or Officer of the Corporation, or of any person having a contract

(*z*) As to who are residents, see note *r* to sec. 75.

(*a*) See the new Jury Act, 22 Vic. cap. 100.

(*b*) No city has yet been made a separate county for *all* purposes.

(*c*) See 22 Vic. cap. 100, sec. 85 *et seq.*, and sec. 91 *et seq.*

(*d*) As to misdemeanor, see note *r* to sec. 55.

(*e*) See sec. 348.

(*f*) As to costs of prosecution at Quarter Sessions under like circumstances, see stat. 47 Geo. III. cap. 11, sec. 2; and 20 Vic. cap. 59, sec. 7.

(*g*) See stat. 47 Geo. III. cap. 11; 8 Vic. cap. 38; 9 Vic. cap. 58; and 20 Vic. cap. 59, sec. 7.

(*h*) *Resolution.*—See note *v* to sec. 185.

therewith, in relation to the duties or obligations of the Member, Officer, or other person, to the City, (*i*) or in case the Council of any City sees fit to cause inquiry to be made into or concerning any matter connected with the good government of the City, or the conduct of any part of the public business thereof, (*j*) and if the Council at any time passes a resolution requesting the Recorder of the City to make the inquiry, the Recorder shall inquire into the same, (*k*) and shall for that purpose have all the powers of Commissioners under the Act, intituled, *An Act to empower Commissioners for inquiring into matters connected with the public business to take evidence on oath*: (*l*) And the Recorder shall, with all convenient speed, report to the Council the result of the inquiry and the evidence taken thereon. (*m*)

To have
powers under
9 V. c. 38.

CITY DIVISION COURT.

361.—The Governor may, by Letters Patent under the Great Seal, appoint the Recorder to preside over and hold the Division Court of that Division of the County which includes the city; (*n*) and in such case, as long as the Letters Patent

Division
Court to be
held by
Recorder.

(*i*) So far the investigation authorized is to be one relating to a "supposed breach of trust or other misconduct, &c." The section extends to all members of the Council, as well as officers of the Municipality, and to all persons having contracts with the Council. The object of the enactment is manifestly to facilitate the detection and correction of abuses.

(*j*) The design of this part of the section is to embrace cases not falling within the preceding.

(*k*) It is enacted that if the Council at any time passes a resolution requesting the Recorder to make the inquiry, he *shall* inquire into the same. The duty is apparently an imperative one.

(*l*) Commissioners so appointed have the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing (or on solemn affirmation, if they are parties entitled to affirm in civil matters), and to produce such documents and things as such Commissioners think requisite to the full investigation of the matters into which they are appointed to examine; and the Commissioners have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases. (9 Vic. cap. 38, sec. 1.)

(*m*) The Recorder is not only to report to the Council the *result* of the inquiry, but *the evidence* taken thereunder, so that the Council may thereupon arrive at some conclusion.

(*n*) The number of Division Courts in each county or union of counties is not to be less than three nor more than twelve, of which one Division Court is to be held in each city and county town. (13 & 14 Vic. cap. 53, sec. 3.) Justices of the Peace in General Quarter Ses-

remain unrevoked, (o) the Recorder shall have the powers and privileges and perform the duties otherwise belonging to the County Court Judge as Judge of the Division Court, and during such period the authority and duties of the County Judge or Judge of such Division Court shall cease, (p) except as in this Act provided. (q)

Salary as
Judge of Di-
vision Court.

362.—The Governor in Council shall fix an annual salary to be paid to the Recorder for performing such duties, regard being had in fixing the same to the population resident within the jurisdiction of such Division Court, the amount accruing from the Court to the fee fund, the amount of the salary of the Recorder as such, and the amount of the salaries of the County Court Judges in Upper Canada, (r) and the salary shall be subject to be altered, in the like way, (s) and shall be paid out of the like fund and in the like manner as the

sions assembled are authorized to declare and appoint the number, limits and extent of every such Division (Ib. sec. 4; and see 16 Vic. cap. 177, sec. 20); and may from time to time alter the number, limits and extent of such Divisions. (Ib.) This section extends only "to the Division Court of that division of the county which includes the city."

(o) It is not said whether the Letters Patent are to be "during pleasure" or during "good behaviour;" but it is believed the former is intended.

(p) See stat. 13 & 14 Vic. cap. 53; 16 Vic. cap. 177; and 18 Vic. cap. 125.

(q) See sec. 364.

(r) The Recorder is to receive an annual salary for performing the duties mentioned in the last section. The salary is to be fixed by the Governor in Council. It is not to be arbitrarily fixed, but with regard to the following data:

1. The population resident within the jurisdiction of the Division Court.
2. The amount accruing from that court to the fee fund.
3. The amount of the salary of the Recorder as Recorder. (See sec. 350.)
4. The amount of the salaries of the County Judges in Upper Canada.

(s) Every County Judge may be paid by a certain salary of not more than £650 or less than £250. The Governor in Council is authorized to fix the remuneration. In doing so he is required to have due regard as well to the population of the several counties or unions of counties, as to the amount of fees received by the County Crown Attorney, under the several statutes establishing fee funds. (8 Vic. cap. 13, sec. 64; 13 & 14 Vic. cap. 53, sec. 12; and 19 Vic. cap. 90, sec. 21; 20 Vic. cap. 59, sec. 12.) The remuneration of County Judges may be increased, or, as vacancies occur, diminished. (See 8 Vic. cap. 13, sec. 61; and 19 Vic. cap. 90, sec. 22.)

salary of the County Judge in and for the county in which the city is situated. (*t*)

363.—While a Recorder is authorized to hold the Division Court, he shall not practise as a Barrister, Advocate, Attorney, Solicitor or Proctor, in any Court of Law or Equity. (*u*)

Recorder when not to practise at the Bar.

364.—In case of the Recorder's illness or unavoidable absence, or absence by leave of the Governor while such Letters Patent are in force, the Judge of the County Court of the county in which the city lies, may officiate for the Recorder, as Judge of such Division Court, and in every other capacity pertaining to the office of the Recorder as Judge of such Division Court; (*v*) or the Recorder may, by an instrument in writing under his hand and seal, appoint a Barrister of Upper Canada to act for him as Judge of such Division Court, with like powers as aforesaid; (*w*) but no such appointment shall continue in force for more than one calendar month, unless renewed in like form. (*x*)

Absence of Recorder provided for.

Appointment of Deputy.

365.—Every such instrument shall contain a recital of the cause which renders the appointment therein contained necessary; and shall be executed in triplicate; and the Recorder shall file one of the triplicate originals in the office of the Clerk of such Division Court, and shall deliver or send to the person so named to officiate for him another thereof, and

Form of.

(*t*) The salary of the County Judge is payable by the County Crown Attorney, who is the receiver of the fee fund; and in the event of the fees received not being sufficient to defray the disbursements required on account of the County and Division Courts, the Governor General is authorized to issue his warrant in favor of the County Crown Attorney, for the amount required to make up the salaries of the Judges. (See 8 Vic. cap. 3, sec. 66; 13 & 14 Vic. cap. 53, sec. 12; and 20 Vic. cap. 59, sec. 15.)

(*u*) In other words, not in any capacity practise his profession in any of the courts of the province.

(*v*) The Judge of the County Court of the county in which the division presided over by the Recorder is situate, may officiate for the Recorder in either of three events; first, the illness of the Recorder; secondly, absence by leave of the Governor; and thirdly, unavoidable absence.

(*w*) He may appoint *any* barrister, no matter of how few years standing at the bar. The Governor may annul any such appointment, and may appoint another barrister to act for the Recorder. (Sec. 366.)

(*x*) That is, no appointment by the Recorder under this section shall be of longer duration than one calendar month, unless renewed in the form directed. (See sec. 365.)

shall transmit the third to the Provincial Secretary for the information of the Governor. (*y*)

Governor
may super-
sede and
substitute
another.

366.—The Governor may, by an instrument under his Privy Seal, annul any such appointment; and may, if he thinks fit, by the same instrument or any other instrument under his Privy Seal, appoint another Barrister of Upper Canada to act for the Recorder in the place of the Barrister appointed by the Recorder. (*z*)

JURORS AND WITNESSES.

COMPETENCY.

Competency
of jurors and
witnesses.

367.—In any prosecution, suit, action or proceeding to which a Municipal Corporation is a party, no Member, Officer or servant of the Corporation shall, on account of his being such, be an incompetent witness, (*a*) or be liable to challenge as a juror. (*b*)

(*y*) Provision is in this section made, as well for the form of the instrument as for the disposal of it when executed. It must contain a recital of the cause which renders the appointment necessary, and must be executed in triplicate. It need not of necessity be under seal. When executed in triplicate, the copies are to be disposed of as follows: one copy to be filed in the office of the Clerk of the Division Court; the second to be delivered to the person named therein; and the third to be transmitted to the Provincial Secretary, for the information of the Governor General.

(*z*) See note *w* to sec. 364.

(*a*) Although in the ordinary affairs of life temptations to practise deceit and falsehood may be comparatively few, and therefore men may in general be disposed to rely on the statements of each other, yet in judicial investigations the motives to pervert the truth and to perpetrate falsehood and fraud are so greatly multiplied, that if mis-statements were believed in courts of justice with the same indiscriminating credulity as in private life, much wrong would be unquestionably done. The danger of injustice arising from this cause, which doubtless should induce both judges and juries to watch with cautious suspicion the evidence laid before them, especially when it comes from an interested or polluted source, has till recently been thought to justify the observance of a distinction between competent and incompetent witnesses; and with a view of rendering the evil as inoperative as possible, it was long deemed expedient that the testimony of some particular classes of persons should be uniformly *excluded* (2 Taylor on Evidence, 2 Edn. 1040.); but of late, the rule both in England and in Upper Canada has been much relaxed. (See Prov. Stat. 16 Vic. cap. 19.) And still a distinction is to be observed between the *competency* and the *credibility* of a witness. This section makes competent in any prosecution, &c., in which a municipal corporation is a party, any *member, officer or servant* of the corporation. The question of competency is, whenever it arises, one to be determined by the court. (*Barlett v. Smith*, 11 M. & W. 486.)

(*b*) To challenge a juror is to take exception to his right to sit,

EXEMPTIONS.

368.—The inhabitants of a City, not a separate County for all purposes, (c) shall be exempt from serving on juries at any other than the City Courts and Courts of Assize and *Nisi Prius*, Oyer and Terminer and General Gaol Delivery for the County in which the City is situate, and on trials at Bar before the Superior Courts of Common Law. (d)

Exemptions
of Citizens as
Jurors.

HIGH BAILIFF AND CONSTABLES.

369.—Until the organization of the Board of Police hereinafter mentioned, the Council of every City shall appoint annually a High Bailiff, but may provide by By-law that the offices of High Bailiff and Chief Constable shall be held by the same person. (e)

Bailiffs and
Constables.

370.—Until such organization, the Council of the City or Town shall appoint one Chief Constable for the Municipality, and one or more Constables for each Ward, and the persons so appointed shall hold office during the pleasure of the Council. (f)

Chief Con-
stable.

371.—In case any person complains to a Chief of Police, or to a Constable or Bailiff in a Town or City, of a breach of the Peace having been committed, and in case such officer has reason to believe that a breach of the Peace has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the person charged with committing the same is necessary to prevent his escape or to prevent a renewal of the breach of the Peace, or to prevent immediate violence to person or property, then if the person complaining gives satisfactory security to the officer that he will without delay appear and prosecute the charge before the Police Magistrate or before the Mayor or Sitting Justice, such officer may, without warrant, arrest the person charged in order to his being conveyed as soon as conveniently may be

Arrests by
constables
for alleged
breaches of
the peace
(not within
view) when
sanctioned.

either from want of qualification or on account of interest, &c. (See the new Jury Act, 22 Vic. cap. 100, sec. 96 *et seq.*)

(c) No city in Upper Canada is yet a separate county for all purposes.

(d) To make the exemptions complete, some reference should have been made to the Court of Chancery, for that Court is now empowered to direct issues to be tried by a jury. (20 Vic. cap. 56, s. 13.)

(e) The Board of Police clauses come into operation on the 1st December, 1858, when this and secs. 370, 372 and 373 will cease. (See sec. 374.)

(f) See last note.

before the Magistrate, Mayor or Justice, to be dealt with according to Law. (*g*)

Until a Board of Police is organized, Mayor, &c., may suspend Chief Constable, &c., from office.

372.—Until the organization of a Board of Police, every Mayor, Recorder and Police Magistrate may, within his jurisdiction, suspend from office for any period in his discretion, the Chief Constable or Constable of the town or city, and may if he chooses appoint some other person to the office during such period; and in case he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case to the Council, and the Council may dismiss such officer, or may direct him to be restored to his office after the period of his suspension expires; and the Recorder and City Council respectively shall have the like powers as to the High Bailiff of a city. (*h*)

Salary to be withheld during suspension.

373.—During the suspension of such officer, he shall not be capable of acting in his office, except by the written permission of the Mayor, Recorder or Police Magistrate who suspended him, nor during such suspension shall be entitled to any salary or remuneration. (*i*)

BOARD OF POLICE.

OF WHOM COMPOSED.

Board of Police of whom composed.

374.—In every city there is hereby constituted a Board of Commissioners of Police, and such Board shall consist of the Mayor, Recorder and Police Magistrate, and if there is no

(*g*) The object of this section is to remove doubts as to the authority of the peace officers named to make arrests without warrant for misdemeanors not committed within their view. Great caution must, however, be exercised in making arrests under such circumstances. A magistrate's warrant is a great shield. Where an arrest is made without it, if it should turn out that the provisions of this section have been neglected, that the wrong person is arrested, or that proof is so slight that he is of necessity discharged, the officer might be held liable to an action for false imprisonment, which he would not be if shielded by a magistrate's warrant. (4 U. C. Law Jour. p. 159.) To authorize an arrest without warrant, under this section, the following things must concur:

1. There must be a complaint to the officer of a breach of the peace *having been committed*.
2. The officer must have reason to believe that a breach of the peace has been committed. *And,*
3. That there is good reason to apprehend that the arrest of the person charged is necessary to prevent his escape, or to prevent a renewal of the breach of the peace, &c.
4. Satisfactory security to prosecute is to be given by the party complaining.

(*h*) See note *e* to sec. 369.

(*i*) See same note.

Recorder or Police Magistrate, or if the offices of Recorder and Police Magistrate are filled by the same person, the Council of the city shall appoint a person resident therein to be a member of the Board, or two persons so resident to be members thereof, as the case may require. (*j*)

QUORUM.

375.—A majority of the Board shall constitute a quorum, and the acts of a majority shall be considered acts of the Board. (*k*)

A majority to constitute a quorum.

NUMBER OF THE POLICE FORCE.

376.—The Police Force shall consist of a Chief Constable and as many constables and other officers and assistants, as the Council from time to time deems necessary, but not less in number than the Board reports to be absolutely required. (*l*)

Number of to be determined by the Council.

APPOINTMENT OF POLICEMEN.

377.—The members of the Police Force shall be appointed by and hold their offices at the pleasure of the Board. (*m*)

The Policemen to be appointed by the Board.

POLICE REGULATIONS.

378.—The Board shall, from time to time, as they may deem expedient, make such regulations for the government of the Force and for preventing neglect or abuse, and for rendering the force efficient in the discharge of all its duties. (*n*)

Board to make Police Regulations.

(*j*) The object of this and the following sections is as much as possible to make the Police Force of a city independent of the City Council. The control of the force is transferred from the Council to a Board of Police, and that Board is constituted by this Act. It is made to consist of the Mayor, Recorder, and Police Magistrate. It is only when there is no Recorder or Police Magistrate, or when these two offices are held by the same person, that the Council is authorized at all to interfere with the constitution or construction of the Board.

(*k*) The design of the Legislature is, that the Board should consist of three persons (sec. 374); so that it will require at least two to constitute a quorum.

(*l*) This section relates to the constitution and number of the force. It is to consist of a Chief Constable and as many constables and other officers and assistants as the Council from time to time deems necessary; but in no case to be less in number than the Board reports to be absolutely required. The only authority of the Council is subject to the provisions of the section to fix the number of the force, but not to appoint the members of the force. (See sec. 377.)

(*m*) The members of the force are, it will be observed, not only to be appointed by the Board, but to hold office during the pleasure of the Board—not the City Council (see note *j* above), and are in other respects to be subject to the government of the Board. (See secs. 378, 379.)

(*n*) This section is badly worded. If the word “such” is to be

POLICE SUBJECT TO THE BOARD, &c.

The Police-
men to be
subject to
the Board.

379.—The Constables shall obey all the lawful directions, and be subject to the government of the Board, and shall be charged with the special duties of preserving the peace, preventing robberies and other felonies and misdemeanors, and apprehending offenders, and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities which belong by law to Constables duly appointed. (*o*)

REMUNERATION AND CONTINGENT EXPENSES.

Duties of.

Remunera-
tion and
contingent
expenses.

380.—The Council shall fix and pay a reasonable remuneration for and to the respective members of the Force, and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other necessities as the Board may from time to time deem requisite and require for the accommodation and use of the Force. (*p*)

COURT HOUSES AND PRISONS.

GAOLS AND COURT HOUSES.

County
Council may
pass By-laws
for building.

381.—Every County Council may pass By-laws for erecting, improving and repairing a Court House, Gaol, House of Correction, and House of Industry, upon land being the property of the Municipality, and shall preserve and keep the same in repair, and provide the food, fuel and other supplies required for the same. (*q*)

retained, the words "as they may deem expedient" should follow the word "regulations." Then the section would read—"The Board shall from time to time make *such* regulations as they may deem expedient, for the government," &c. No such regulations are to be inconsistent with this statute, or the law of the land. (See note *x* to sec. 187.)

(*o*) To explain the powers, privileges and duties of a Constable, would require more space than is here at the disposal of the Editor. He hopes at an early day to write and publish a treatise on the subject, founded on a Charge to the Grand Jury of the County of Simcoe, at the April sessions of 1852, by his Honor Judge Gowan.

(*p*) The duties mentioned in this section are imposed upon the City Council, and not upon the Board.

These duties are :

1. To fix a reasonable remuneration for the members of the force.
2. To pay the same.
3. To provide for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and necessities, as the Board may from time to time deem requisite.
4. To pay for the same.

(*q*) The powers and the duties of the County Council under this section are :—

382.—The Gaol, Court House and House of Correction of the County in which a Town or City, not separated for all purposes from a County, (*r*) is situate shall also be the Gaol, Court House and House of Correction of the Town or City; and shall in the case of such a City continue to be so until the Council of the City otherwise directs; (*s*) and the Sheriff, Gaoler and Keeper of the Gaol and House of Correction shall receive and safely keep until duly discharged, all persons committed thereto by any competent authority of the Town or City. (*t*)

Gaols and court houses to be common to counties and cities; when.

383.—While a City or Town uses the Court House, Gaol or House of Correction of the County, the City or Town shall pay to the County such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon or be settled by arbitration under this Act. (*u*)

Compensation how to be regulated and made.

1. To *erect and improve* a Court House, Gaol, House of Correction, and House of Industry, upon land being the property of the Municipality.
2. To *preserve and keep the same in repair*.
3. To *provide* the food, fuel, and other supplies required for the same.

(*r*) No city or town is yet separated for *all* purposes from the county in which situate.

(*s*) It is declared, first, that the gaol, &c., of the county in which a town or city is situate, shall also be the gaol, &c., of the town or city; and, secondly, in the case of a *city*, continue to be so until the Council of the city otherwise directs. It is apparently only the Council of a city, and not of a town, that has power to direct the erection of a separate gaol, &c.

(*t*) For instance, Police Magistrate or Justice of the Peace of such town or city.

(*u*) Arbitrators were appointed by articles of agreement, dated 28th December, 1855, to settle certain differences recited as pending between the city of London and the county of Middlesex, respecting the compensation to be paid by the city to the county for the use of county Court-house and gaol, and concerning certain financial matters then depending between the respective municipalities. On the same day they awarded, first, that the stock held by the county in a certain railway should be divided in the proportion of one-fifth to be transferred to the city, the remaining four-fifths still to belong to the county; secondly, that the city should pay the county £2,675 on account of the county roads, and should keep such roads in repair within the city limits; thirdly, that the city should pay the county £1,966 in full of its portion of the county debt; fourthly, that in future each of the municipalities should pay the expenses of all prisoners committed to the county gaol by each of them respectively, and that the portion of such expense incurred by the city should be paid over by them in January of each year; fifthly, that in future the city should pay to the county one-third of all incidental expenses connected with the Court-

When the amount may be revised.

384.—In case after the lapse of five years from such compensation having been so agreed upon, or awarded, or having been settled by Act of Parliament, and whether before or after the passing of this Act, it appears reasonable to the Governor in Council, upon the application of either party, that the amount of the compensation should be reconsidered, he may, by an Order in Council, direct that the then existing arrangement shall cease after a time named in the order, and after such time the Councils shall settle anew, by agreement or by arbitration under this Act, the amount to be paid from the time so named in the Order (v)

City Councils may erect court house, gaol, house of correction and house of industry.

385.—The Council of every City may erect, preserve, improve and provide for the proper keeping of a Court House, Gaol, House of Correction and House of Industry upon lands being the property of the Municipality, and may pass By-laws for all or any of such purposes. (w)

Upon separation, gaol and court house regulations to continue.

386.—In case of a separation of a Union of Counties, all rules and regulations, and all matters and things in any Act of Parliament for the regulation of or relating to Court Houses or Gaols in force at the time of the separation, shall extend to the Court House and Gaol of the Junior County. (x)

house and gaol, including repairs and insurance, together with one-third of all expenses connected with the administration of justice not paid by Government,—such payment to be made in the month of January in each year; sixthly, that the city should pay to the county the sums mentioned in the first, second and third clauses of the award, with interest, in twelve months from the 1st of January 1856, except that the City Council should pay its share of the railway stock at the time the county debentures given therefor should become payable; seventhly, that the award should take effect on the 1st January 1855, and remain in force till the 1st January 1860. Held, that the giving to the award a retrospective effect—1st January 1855 being the time when London was declared a city—was not objectionable, but proper; that the arbitrators had authority to give time for payment, as in the sixth clause; that the limiting the continuance of the award till 1st January 1860, was inconsistent with the 12 Vic. cap. 81, sec. 200 (so far as material the same as sec. 384 of this act), and rendered the award bad as to the fourth and fifth clauses, respecting the Court-house and gaol; that the fourth clause of the award was also bad, because it authorized a ratable division of the expenses, instead of awarding the payment of an annual sum (*sed qu.* under this act); that the fourth and fifth clauses might be separated from the rest, and the award be set aside as to them only. (*In re the matter of the Arbitration between the County of Middlesex and the City of London*, 14 U. C. Q. B. 334.)

(v) See preceding note.

(w) This is implied by sec. 382, but to prevent doubt is expressly enacted.

(x) See sec. 46.

LOCK-UP HOUSES.

387.—The Council of every County may establish a Lock-up-House or Lock-up-Houses within the County, and may establish and provide for the salary or fees to be paid to the Constable to be placed in charge of every such Lock-up-House, and may direct the payment of the salary out of the funds of the County. (*y*)

Lock-up-houses may be established by County Councils.

388.—Every Lock-up-House shall be placed in the charge of a Constable specially appointed for that purpose, by the Magistrates of the County at any General Quarter Sessions of the Peace therefor. (*z*)

A Constable to be placed in charge of.

389.—Any Justice of the Peace of the County (*a*) may direct by warrant in writing under his hand and seal, (*b*) the confinement in a lock-up-house within his County, for a period not exceeding two days, of any person charged on oath with a criminal offence, whom it may be necessary to detain until examined and either dismissed or fully committed for trial to the Common Gaol, and until such person can be conveyed to such Gaol; also the confinement in such Lock-up-House, not exceeding twenty-four hours, of any person found in a public street or highway in a state of intoxication, or any person convicted of desecrating the Sabbath, and generally may commit to a Lock-up-House instead of the Common Gaol or other House of Correction, any person convicted on view of the Justice, or summarily convicted before any Justice or Justices of the Peace of any offence cognizable by him or them, and liable

Who liable to confinement in, &c.

(*y*) A "lock-up house" is a place for the temporary confinement of a prisoner, or of a prisoner committed for a short space of time. (Sec. 389.) The gaol is for the whole county, but in each county or union of counties there can be only one gaol, and that situate in the county town. But there may be several lock-up houses, and situate where most convenient. Councils of *counties* only are by this section authorized to establish lock-up houses; but see sec. 392.

(*z*) While the county gaol is to be placed in charge of the gaoler, each lock-up house is to be placed in the charge of a constable *specially* appointed for that purpose by Quarter Sessions.

(*a*) *Qu.* or *town*? It is apprehended that after "county" the word "towns" should have been inserted. The alteration was effected in committee. As the clause stands, it may be a question whether a Justice of a Town, not being at the same time a Justice of the County, has authority to commit to lock-up-houses pursuant to this section. (See secs. 340, 341 and 392.)

(*b*) Warrants of Justices of the Peace are in general required to be not only under hand but under *seal*. (See 16 Vic. cap. 178, *passim*.)

to imprisonment therefor under any Statute or Municipal By-law. (c)

Expense of conveying and maintaining prisoners.

390.—The expense of conveying any prisoner to and keeping him in a Lock-up-House shall be defrayed in the same manner as the expense of conveying him to and keeping him in the Common Gaol of the County. (d)

Previous Lock-up-houses to continue.

391.—Nothing herein contained shall affect any Lock-up-House heretofore lawfully established, but the same shall continue to be a Lock-up-House as if established under this Act. (e)

Lock-up-houses for persons sentenced to short imprisonment.

392.—The Council of every City, Town and Incorporated Village (f) may by By-laws, (g) establish, maintain and regulate lock-up-houses for the detention and imprisonment of persons sentenced to imprisonment for not more than ten days under any By-law of the Council; and of persons detained for examination on a charge of having committed any offence; and of persons detained for transmission to any Common Gaol or House of Correction either for trial or in the execution of any sentence. (h)

(c) The following classes of offenders may be committed to lock-up-houses :

1. Any person charged on oath with a criminal offence, whom it may be necessary to detain until examined, &c.
2. Any person found in a public street or highway in a state of intoxication.
3. Any person convicted of desecrating the Sabbath.
4. Any person convicted on view, or summarily convicted, of any offence under any statute or municipal by-law.

The duration of imprisonment, it will be observed, varies in regard to the description of the offender or nature of his offence.

(d) See the Act "for defraying the expenses of the administration of justice in criminal matters in that part of the Province formerly called Upper Canada." (9 Vic. cap 58.)

(e) Let it be observed that this section preserves only lock-up-houses lawfully established.

(f) Sec. 387 authorises the councils of counties to establish, &c., lock-up-houses. This section extends the power in some degree to councils of cities, towns, and incorporated villages.

(g) See note v to sec. 186.

(h) The persons who may, under the operation of this section, be confined in lock-up-houses are the following :

1. Those sentenced to imprisonment for not more than ten days, under any by-law of the Council.
2. Those detained for examination on a charge of having committed any offence.
3. Those detained for transmission to the common gaol or house of correction.

HOUSE OF INDUSTRY AND REFUGE.

393.—The Council of every County (*i*) may establish a House of Industry and House of Refuge, (*j*) and provide by By-law (*k*) for the erection and repair thereof, and for the appointment and duties of Inspectors, Keepers, Matrons and other servants for the superintendence, care and management of such House of Industry or of Refuge, and in like manner make rules and regulations (not repugnant to law) for the government of the same. (*l*)

County Councils may erect and appoint Inspectors of houses of industry.

394.—Any two of Her Majesty's Justices of the Peace, or of the Inspectors appointed as aforesaid, may, by writing under their hands and seals, commit to the House of Industry or of Refuge, to be employed and governed according to the rules, regulations and orders of the house. (*m*)

Who liable to be committed thereto.

1. All poor and indigent persons who are incapable of supporting themselves. (*n*)

Indigent.

2. All persons without means of maintaining themselves, and able of body to work, and who refuse or neglect so to do. (*o*)

Idle.

3. All persons leading a lewd, dissolute, or vagrant life, and exercising no ordinary calling or lawful business, sufficient to gain or procure an honest living. (*p*)

Lewd.

4. And all such as spend their time and property in public houses, to the neglect of any lawful calling. (*q*)

Frequenters of public houses.

5. And idiots. (*r*)

(*i*) This and the three following sections apply only to *counties*.

(*j*) As the names indicate, houses of industry and refuge are intended for the poor, the dissolute, and the idle. (See sec. 394.)

(*k*) *By-law*.—See note *v* to sec. 186.

(*l*) The powers of County Councils under this clause are—

1. To establish a house of industry and house of refuge.

2. To provide by by-law for the erection and repair thereof.

3. To provide by by-law for the appointment and duties of inspectors, keepers, matrons, and other servants.

4. To make by by-law rules and regulations for the government of the same.

(*m*) See notes to preceding section.

(*n*) That is poor by impotency and defect, as the aged or decrepid, fatherless and motherless, poor under sickness, and persons lame, blind, &c.

(*o*) That is poor who, though not so by impotency and defect, "refuse or neglect to work."

(*p*) That is poor by prodigality and debauchery, also called thriftless poor; persons who lead "a lewd, dissolute, or vagrant life, &c."

(*q*) That is persons who, though not necessarily poor, are much the same as persons described in the last note, viz., persons "who spend their time and property in public houses, to the neglect of any lawful calling,"

(*r*) An idiot or natural fool is one without understanding from his

Punishment
of refractory
inmates.

395.—Every person committed to the House of Industry or of Refuge, if fit and able, shall be kept diligently employed at labour during his continuance there; and in case any such person is idle, and does not perform such reasonable task or labour as may be assigned, or is stubborn, disobedient or disorderly, such person shall be punished according to the rules and regulations or the House of Industry or of Refuge in that behalf. (*s*)

Inspectors to
keep and
render ac-
counts of ex-
penses, &c.

396.—The Inspectors shall keep an account of the charges of erecting, keeping, upholding and maintaining the House of Industry or of Refuge, and of all materials found and furnished therefor, together with the names of the persons received into the house, as well as of those discharged therefrom, and also of the earnings (*t*); and such account shall be rendered to the County Council every year, or oftener when required by a by-law of the Council, and a copy thereof shall be presented to each branch of the Legislature. (*u*)

WORK-HOUSES.

397.—The Council of every city and town (*v*) may respectively pass by-laws: (*w*)

Work-houses
in cities and
towns, and
houses of
correction.

1. For erecting and establishing within the city or town, or on such Industrial Farm, or on any ground held by the Corporation for public exhibitions (*x*), a Work-House or House of Correction, and for regulating the government thereof. (*y*)

nativity, and therefore is by the law presumed never likely to attain understanding. (F. N. B. 233.) He differs from a lunatic in this, that a lunatic has lucid intervals of reason. (4 Co. 125; Co. Litt. 247.)

(*s*) This section it is apprehended does not apply to *idiots*. (See last note.)

(*t*) The duties of Inspectors are, under this section, to keep an account showing the following:

1. The charges for erecting, keeping, upholding and maintaining the house of industry and refuge, and of all materials found and furnished therefor.
2. The names of the persons received into the house, as well as those discharged therefrom, and also of the earnings.

(*u*) It is not said when the copy is to be presented to the Legislature.

(*v*) Not applicable to counties or incorporated villages.

(*w*) *By-laws*.—See note *v* to sec. 186.

(*x*) See subsecs. 8, 9 and 10, of sec. 290.

(*y*) The power given to County Councils is to establish, &c., "houses of industry or refuge;" and to cities and towns, "work houses or houses of correction."

2. For committing or sending, with or without hard labour, to the Work-House or House of Correction, or to the Industrial Farm, by the Mayor, Recorder, Police Magistrate, or two Justices of the Peace for the city or town respectively, such description of persons as may by the Council be deemed and by by-law be declared expedient (*z*); and such farm or ground held as aforesaid shall, for the purposes in this subsection mentioned, be deemed to be within the city or town and the jurisdiction thereof. (*a*)

Who liable
to be com-
mitted
thereto.

THE CARE OF GAOLS AND COURT-HOUSES, &c.

398.—The Sheriff shall have the care of the County Gaol, Gaol offices and yard, a Gaoler's apartments, and the appointment of the keeper's thereof. (*b*)

Custody of
gaol and
court-houses.

399.—The County Council shall have the care of the Court House, and of all offices and rooms connected therewith, whether the same forms a separate building or is connected with the Gaol, and shall have the appointment of the keepers thereof; and shall from time to time provide all necessary and proper accommodation for the Courts of Justice other than the Division Courts, and for all officers connected with such Courts. (*c*)

County
Council to
appoint
keepers, &c.

(*z*) That is such persons as by the Council may be deemed fit objects to be so dealt with.

(*a*) See note to subsec. 8 of sec. 290.

(*b*) Some disputes having hitherto existed between Sheriffs and Municipal Councils, arising out of a real or supposed conflict of jurisdiction as to court houses and gaols. The object of this and the three following sections is, so far as language can do so, to remove all cause of dispute. Though it is by sec. 381 enacted that the County Council may pass by-laws for erecting, improving and repairing the gaol, &c., and shall preserve and keep it in repair, and provide the fuel, food and other supplies required; it is here enacted that the Sheriff shall have the *care* of the gaol, gaol offices and yard, and gaolers apartments, and the *appointment* of the keepers. While upon the Council rests the responsibility of keeping the building, &c., in repair, and of providing the necessaries; upon the Sheriff rests the responsibility of management and internal government.

(*c*) While the care of the gaol is entrusted to the Sheriff, the care of the court house is entrusted to the County Council. It is however expressly declared that the Council "*shall* from time to time provide all necessary and proper accommodation for the Courts of Justice (other than Division Courts) and for *all officers connected with such Courts.*" The Judge of each County Court is empowered to appoint the times and *places* within the divisions of his county when and at which courts are to be holden. (13 & 14 Vic. cap. 53, sec. 3.)

City gaols to
be regulated
by by-laws.

400.—In any city not being a separate county for all purposes, but having a Gaol or Court House separate from the County Gaol or Court House (*d*), the care of such city Gaol or Court House shall be regulated by the by-laws of the City Council. (*e*)

FALSE DECLARATIONS.

Wilful state-
ment to be a
perjury.

401.—The wilful making of any false statement in any declaration required or authorized by this Act, shall be a misdemeanor, punishable as wilful and corrupt perjury. (*f*)

INTERPRETATION CLAUSE.

Interpre-
tation of
words.

402.—Unless otherwise declared or indicated by the context, whenever any of the following words occur in this Act, the meanings hereinafter expressed attach to the same, namely: (*g*)

Municipa-
lity.

1. The word “municipality” means any locality the inhabitants of which are incorporated under this Act, but it does not mean a police village.

(*d*) Though there is not yet any city in Upper Canada separate for all purposes from the county in which situate, yet the city may have its own gaol and court house separate from those of the county (sec. 382); and when such is the case, this section applies.

(*e*) *By-laws.*—See note *v* to sec. 186.

(*f*) This section, though added to the bill in committee of the House of Assembly, is quite unnecessary. It is provided by the Interpretation Act that the word “oath” shall be construed as meaning a solemn affirmation, whenever the context is applied to any person and case by whom and in which a solemn affirmation may be made instead of an oath, &c. (12 Vic. cap. 10, sec. 5, subsec. 13); and that the wilful making of any false statement in any such oath or affirmation shall be wilful and corrupt perjury, and that the wilful making of any false statement in any declaration required or authorized by law shall be a misdemeanor punishable as wilful and corrupt perjury. (*Ib.*)

(*g*) No better mode of avoiding useless repetition in statutes exists than the recent one of appending to statutes of unusual length “an interpretation clause.” So useful has it been found that, as applied to statutes generally, an Act passed in 1849, intitled “An Act for putting a legislative interpretation upon certain terms in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes.” (12 Vic. cap. 10.) The section here annotated must be read in connexion with the Interpretation Act, which contains explanations in addition to those in this section contained. In general, throughout this work, references have been made in the proper places to clauses of the Interpretation Act, when applicable.

2. The word "council" means the Municipal Council, or Council. Provisional Municipal Council, *as the case may be*.

3. The word "county" means County, Union of Counties County. or United Counties, or Provisional County, *as the case may be*.

4. The word "township" means Township, Union of Town- Township. ships or United Townships, *as the case may be*.

5. The words "land," "lands," "real estate," "real pro- Land, real property," respectively, include lands, tenements and heredita- estate. ments, and all rights thereto and interests therein.

6. The words "highway," "road," or "bridge," mean Highway, respectively a public highway, road or bridge. roads, &c.

7. The word "electors" means the persons entitled for the Electors. time being to vote at municipal elections in the Municipality, Ward, or Electoral Division, or Police Village, *as the case may be*.

8. The term "Reeve" includes the Deputy Reeve, when Town Reeve. there is a Deputy Reeve for the Municipality.

9. The words "next day" are not to apply to or include Next day. Sunday or statutory holidays.

REPEALING CLAUSE.

403.—From the first day of December, one thousand eight Repeal of— hundred and fifty eight, the following Acts and parts of Acts are hereby repealed (*h*), namely:

The thirty-second, thirty-third and thirty-fourth sections of the Act of Upper Canada, passed in the first year of Her Majesty's Reign, chapter twenty-one, for Regulating the appointment and duties of Township Officers; (*i*) 1 V. c. 21, ss. 32, 33, 34.

The Upper Canada Municipal Corporations Act of 1849. 12 V. c. 81.

The Upper Canada Municipal Corporations Law Amendment Act of 1850: 13, 14 V. c. 74.

(*h*) On every act professing to repeal or interfere with the provisions of a former act, it is a question of construction whether it operates as a total or partial or temporary repeal. The word "repealed" is not to be taken in an absolute, if it appears upon the whole act to be used in a limited sense. Where several Acts of Parliament upon the same subject had been totally repealed, and others repealed in part, it was held that it must have been the clear intention of the Legislature that only the part of an act particularly pointed out should be repealed. (Harrison's C. L. P. Acts, p. 533, note *i*.)

(*i*) The only section of this Act not in terms repealed by this or other Acts is sec. 35; but is, it is apprehended, with the exception of the last proviso, virtually superseded. (See sec. 338, subsecs. 1, 6, 17, 18, 19 & 20.) The proviso is hereinafter published.

Exception. Except so much of the Schedules in either of the two last mentioned Acts as define the limits or boundaries of any Cities or Towns, being schedule B of the Act of 1849, numbers two, three, four, six, seven, eight, nine, ten, and eleven and Schedule C of the same Act numbers one, two and three, and Schedule B of the Act of 1850, numbers one, five, twelve, thirteen, fourteen and fifteen.

Further exception. And excepting also so much of Schedule A of the Act of 1849, as relates to Amherstburg, and excepting also so much of the two hundred and third section of the last mentioned Act, and so much of any other sections of either of the said Acts relating to any of the schedules thereof as have been acted upon or as are in force and remain to be acted upon at the time this Act takes effect. (j)

14 & 15 V. c. 109. The Upper Canada Municipal Corporations Law Amendment Act of 1851;

14 & 15 V. c. 124. The Act passed on the thirtieth August, one thousand eight hundred and fifty-one, to enable Municipal Corporations in Upper Canada, to contract Debts to the Crown in the purchase of Public Works without imposing a Special Rate or Tax for the payment of the same;

16 V. c. 35. The Act passed on the tenth November, one thousand eight hundred and fifty-two, to enable the Township of Stamford to make By-laws for the better government of that part of the said Township which lies in the immediate vicinity of the Falls of Niagara;

16 V. c. 181. The Upper Canada Municipal Corporations Law Amendment Act of 1853; (k)

(j) "Schedule A." of the Act of 1849, here mentioned, should be "Schedule D." The latter is mentioned in 12 Vic. cap. 81, sec. 203, but was unintentionally omitted in the schedule of the acts as passed. The omission was afterwards supplied by statute 13 & 14 Vic. cap. 64, sec. 3, sch. D. "Amherstburgh" is not mentioned in 12 Vic. cap. 81, sch. A., but in sch. D.; and it is therefore believed that the mention of sch. A. in this saving clause was inadvertent. Being a manifest mistake, it is not supposed to be of any consequence. Were there any doubt of what is meant the wording of sec. 203 of 12 Vic. cap. 81, which refers to schedule D., would remove that doubt. Moreover, the present act provides for the erection of incorporated villages, if sufficiently populous, into towns; and Amherstburgh being an incorporated village, when of the requisite population, may avail itself of the provision (Sec. 15.) So much of the Upper Canada Municipal Corporations Act of 1849 and of the Act of 1850 as is not repealed, is hereinafter published. The reference to the latter in the margin as being "13 & 14 Vic. cap. 74," is erroneous. The chapter is "64," and not "74."

(k) The foregoing acts being totally repealed, no further notice is taken of them in this work.

The fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third sections of the Act passed on the thirtieth day of May, one thousand eight hundred and forty-nine, chapter seventy-eight, for abolishing the Territorial Division of Upper Canada into Districts, and for providing for Unions of Counties for judicial and other purposes, and for the dissolution thereof; (*l*)

12 V. c. 78.
Certain sections of.

The Act passed on the thirtieth day of May, one thousand eight hundred and forty-nine, chapter seventy-nine, to supply provisions not included in the Statutes passed in the eleventh year of Her Majesty's Reign, chapter thirty-nine, and in the twelfth year of Her Majesty's Reign, chapter seventy-eight: (*m*)

12 V. c. 79.

The fifteenth section of the Act passed on the seventeenth day of March, one thousand eight hundred and forty-five, chapter twenty, for the regulation of Line Fences and Water Courses in Upper Canada; (*n*)

8 V. c. 20, s. 15.

The Act passed on the eighteenth day of May, one thousand eight hundred and forty-six, chapter eight, to prevent the opening of Government Allowances for Roads, without an order from the District Council;

9 V. c. 8.

The Act passed on the tenth day of August, one thousand eight hundred and fifty, chapter sixty-five, to amend the Laws relative to Tavern Licenses in Upper Canada;

13 & 14 V. c. 65.

The Act passed on the thirtieth day of August, one thousand eight hundred and fifty-one, chapter one hundred and twenty, to explain and amend the last above mentioned Act;

14 & 15 V. c. 120.

The Act passed on the fourteenth day of June, one thousand eight hundred and fifty-three, chapter one hundred and eighty-four, to repeal certain duties of Excise, and to vest certain powers in the Municipal authorities in Upper Canada;

16 V. c. 184.

The Act passed on the tenth day of August, one thousand eight hundred and fifty, chapter fifteen, providing for the repair of Roads and Bridges within the limits of Incorporated Cities and Towns;

13 & 14 V. c. 15.

The Act passed on the thirtieth day of May one thousand

18 V. c. 133.

(*l*) The 1, 2, 3, 4, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 sections and schedules of this act are unrepealed, and as such hereinafter published.

(*m*) See note *k*, p. 232.

(*n*) The remaining sections of this act are hereinafter published.

eight hundred and fifty-five, chapter one hundred and thirty-three, to require By-laws of City, Town, Village or Township Councils for raising money on the credit thereof, to be approved by a majority of the electors before coming into force ;

18 V. c. 134. The Act passed on the same day, chapter one hundred and thirty-four, to amend the Act of the previous Session, relative to certain duties of Excise in Upper Canada ; (o)

10 & 11 V. c. 41, ss. 3, 5, 6. The third, fifth and sixth sections of the Act passed on the twenty-eighth day of July, one thousand eight hundred and forty-seven, chapter forty-one, to establish Lock-up-Houses in the unincorporated Towns and Villages of Canada West ; (p)

7 W. 4, c. 24. The Act of Upper Canada passed in the seventh year of the reign of King William the Fourth, chapter twenty-four, for the erection and maintenance of Houses of Industry ;

14 & 15 V. c. 117. The Act passed on the thirtieth day of August, one thousand eight hundred and fifty-one, chapter one hundred and seventeen, to authorise the payment of certain expenses of the administration of Justice in the Recorder's Court in Upper Canada, out of the Consolidated Revenue Fund of the Province ;

18 V. c. 80. The Act passed on the nineteenth day of May, one thousand eight hundred and fifty-five, chapter eighty, to facilitate the negotiation of Municipal Debentures ; (q)

20 V. c. 6. The Act passed on the twenty-seventh of May, one thousand eight hundred and fifty-seven, chapter six, to amend the Municipal and Assessment Acts of Upper Canada, in so far as they relate to the commutation of statute labour ;

20 V. c. 67. The Act passed on the tenth of June in the same year, chapter sixty-seven, to amend the Municipal Law relating to Incorporation of Villages ;

20 V. c. 68. The Act passed on the same day, chapter sixty-eight, to enable Counties, united for Municipal purposes, to carry on improvements independently of each other ;

20 V. c. 69. The Act passed on the same day, chapter sixty-nine, to provide for the disposal of road allowances in the rural Municipalities of Upper Canada ;

20 V. c. 70. The Act passed on the same day, chapter seventy, to amend the law relative to houses of public entertainment ; (r)

(o) See note *k*, p. 232.

(p) The remaining sections of this act were repealed by 12 Vic. cap. 80, so that none of it is now in force.

(q) See note *k*, p. 232.

(r) See same.

Also the following Acts and parts of Acts of Upper Canada: *Divers Acts.*
 Section 14 of 32 Geo. III. c. 8, (s) 33 Geo. III. c. 13, (t)
 Sections 12 and 35 of 50 Geo. III. c. 1, (u) 2 Geo. IV. c. 8, (v)
 and 4 Wm. IV. c. 18. (w)

404.—No Act or parts of any Acts, repealed by any of the above repealed Acts shall be revived, but all such Acts shall continue repealed, (x) and nothing in this repealing clause contained shall affect any statute not herein mentioned, (y) or any proclamation by or under which cities and other Municipalities have been erected so far as respects the continuing of the same and the boundaries thereof. (z)

Acts formerly repealed to continue repealed.

CONFIRMING AND SAVING CLAUSES.

405.—The Head and Members of the Council, and the Officers By-laws, Contracts, Property, Assets and Liabilities of every Municipal Corporation, and the Trustees of every Police Village existing when this Act takes effect, (a) shall be deemed the Head and Members of the Council, and the Officers, By-laws, Contracts, Property, Assets and Liabilities of such Cor-

Heads, officers, by laws, &c., continued

(s) In this Act there are seventeen sections. The first thirteen are effete, and sec. 14 is hereby repealed; leaving secs. 15, 16 and 17 unrepealed.

(t) See note *k*, p. 232.

(u) None of this act is now unrepealed. Before the Union, several sections of it were repealed. After the Union, all of it with the exception of the two sections here mentioned were repealed by 12 Vic. cap. 80. Now that these two sections are repealed, there remains no section in force.

(v) There were two sessions in the second year of the reign of George the Fourth. This act was passed in the first session, and is totally repealed.

(w) None of this act is now in force.

(x) By the repeal of a repealing statute (the new law containing nothing in it that manifests the intention of the Legislature that the former Acts shall continue repealed) the original acts are revived; but if an act is repealed by several acts, a repeal of one act or two, and not of all, does not revive the first act. If a repealing act and part of the original act is repealed by a subsequent act, the residue of the original act is revived. If an act of parliament is revived, all acts explanatory of that act are also revived. It is however usual, when no revival is intended, expressly to provide against the revival, as is done in the section here annotated. (Harrison's C. L. P. Acts, p. 533, note *j*.)

(y) So that apparently there is to be no repeal by implication.

(z) The material parts of most if not all of these proclamations will be found hereinafter published.

(a) 1st December, 1858. (Sec. 1.)

poration and the Trustees of such Police Village as continued under and subject to the provisions of this Act. (b)

Pending proceedings to continue.

406.—All proceedings on behalf of or against any existing Municipal Corporation, (c) or Police Trustees pending when this Act takes effect shall be continued under this Act, in the name in which the same are then pending. (d)

Past transactions confirmed.

407.—All things hertofore done under the enactments hereby repealed, are confirmed, except any matter which has been, or within one year after the passing of this Act, may be made the subject of proceedings at law or in equity. (e)

Previous offences may be prosecuted in the new corporation name.

408.—All offences, neglects, fines, penalties, moneys, debts, and other matters and things which immediately before this Act goes into effect might have been prosecuted, punished, enforced, or recovered under the Acts or parts of Acts hereby repealed, may be prosecuted, punished, enforced, or recovered under this Act, in the same manner, within the same time, and in the same name, and by the same process and proceedings, as if the same respectively had been committed or incurred, or had accrued or become due or payable after the taking effect of this Act. (f)

DECLARATORY CLAUSE.

Declaration of effect of Municipal Acts as to power to impose statute labour.

409.—And whereas doubts have arisen as to the power heretofore of incorporated Towns and Villages, when set apart from the Township or Townships in which the same are situate, to assess and impose statute labor in the same manner as Townships have been authorized. (g) To remove such doubts

(b) See secs. 2 and 3.

(c) A schedule of existing municipalities, so far as can be ascertained, is published in the Appendix to this work.

(d) In other words, all proceedings at law, either for or against existing municipal corporations, &c., on 1st December, 1858, shall be continued under this act under the name in which pending, notwithstanding the passing of this act.

(e) This is very important, and intended in a reasonable manner to prevent litigation. This act passed on 16th August, 1858. To question the validity or legality of any thing done under enactments by this act repealed, proceedings must be commenced either at law or in equity, within one year after 16th August, 1858. If not so questioned, all things are *confirmed*.

(f) The object of this section is to provide against a failure of justice, by reason of offences, &c., committed under the old acts, not being prosecuted before they cease to operate, viz., on 1st December, 1858. The remedy is to allow all such prosecutions to proceed as if the offences, &c., were committed after 1st December, 1858.

(g) See note a to subsec. 4 of sec. 318, p. 177.

it is declared that the several Acts of the twelfth of Victoria chapter eighty-one, thirteenth and fourteenth of Victoria chapter sixty-four, and sixteenth of Victoria chapters one hundred and eighty-one and one hundred and eighty-two, gave such and the same powers to Incorporated Towns and Villages, when set apart from the Township or Townships in which the same are situate, in respect to the assessment and imposition of statute labor, as are in and by the said Acts respectively conferred on Townships. (h)

410.—This Act shall apply to Upper Canada only.

Act Limited
to Upper
Canada.

(h) This declaratory clause was added by the Legislative Council. Its object is sufficiently explained in its preamble. Its effect is retrospective.

ADDITIONAL STATUTES.

32 GEO. III.—CAP. 7.

An Act to regulate the Toll to be taken in Mills.

[Passed 15th October, 1792.]

Preamble.

No greater
proportion to
be taken for
grinding and
bolting grain
than one
twelfth.

WHEREAS it is expedient to ascertain and determine the quantity of grain to be taken by way of toll, for grinding the said grain into flour, and bolting the same: *And whereas* different customs have obtained within the several Districts of this Province: *Be it, &c.*, That from and after the first day of January, in the year of our Lord one thousand seven hundred and ninety-three, no owner or occupier, or owners or occupiers of any Mill or Mills within this Province, or any person employed by him or them, shall demand, take or receive any quantity or proportion of grain brought, by him or them to be ground and bolted, greater than one twelfth share or part, for grinding and bolting such grain.

Penalty.

How levied
and applied.

2.—*And be it, &c.*, That any owner or occupier, or owners or occupiers of a Mill or Mills within the said Province, or any person employed by him or them, who shall demand and take, after the day and year above mentioned, any quantity or proportion of grain, greater than one twelfth share or part of such grain as aforesaid, shall, for every such offence forfeit and pay the sum of Ten Pounds, Quebec currency; one moiety thereof to his Majesty, his Heirs and Successors, for the public uses of the said Province, and the support of the Government thereof; and the other moiety of the said sum to any person who shall sue for the same in any of his Majesty's Courts of Record within this Province.

3.—*And whereas* much inconvenience and confusion has arisen from the custom of bringing bags of grain, without any distinguishing mark to whom the said bags of grain belong: *Be it, &c.*, That no owner or occupier of any Mill shall be bound to receive, or be chargeable with the loss of any bag or bags of grain or flour, unless the same be marked with the initial letters of the Christian and Surname of the owner of the said grain, or with some mark distinguishing the said bag or bags, which mark of distinction shall be previously communicated and made known to the said owner or occupier, or his servant usually attending the said Mill.

Bags must
be marked.

32 GEO. III.—CAP. 8.

An Act for Building a Gaol and Court House in every District within this Province, and for altering the Names of the said Districts.

[Passed 15th October, 1792.]

15.—*Provided always*, That no license shall be granted for retailing any spirituous liquors within any of the said Gaols or Prisons; and if any Gaoler, keeper or Officer, of any Gaol or Prison, shall sell, lend, use or give away, or knowingly permit or suffer any spirituous liquors or strong waters to be sold, used, lent or given away, in such Gaol or Prison, or brought into the same, other than except such spirituous liquors or strong waters as shall be prescribed or given by the prescription and direction of a regular Physician, Surgeon or Apothecary; every such Gaoler, keeper or other Officer, shall, for every such offence, forfeit and lose the sum of Twenty Pounds, Current money of this Province, one moiety thereof to his Majesty, his Heirs and Successors, for the public uses of the said Province, and the support of the Government thereof, and the other moiety of the said sum, with full costs of suit, to such person or persons as will sue for the same in any of his Majesty's Courts of Record in this Province, by action of debt, bill, plaint or information; and in case any such Gaoler or other Officer being convicted thereof as aforesaid, shall again offend in like manner, and be thereof a second time lawfully convicted, such second offence shall be deemed a forfeiture of his office

No license to
be granted
for retailing
spirituous
liquors
within such
Gaols.

See 3 Vic.
cap. 14.

Penalty on
Gaolers
transgress-
ing in this
respect.

Penalty for a
second trans-
gression.

17.—*And be it, &c.*, That it shall and may be lawful for the said Justices, within the respective limits of their Commissions, assembled as aforesaid, or the greater part of them, and they are hereby authorised and empowered to ascertain and appoint a reasonable yearly salary, according to their discretion, to be paid to the Gaoler, and that the said salary

Rules made
in Quarter
Sessions,
when
approved by
a Judge,
shall be bind-
ing on the
Gaoler and
prisoners.

See 1 Vic.
cap. 6, sec. 6.

shall be in place of all fees, perquisites or impositions of any sort or kind whatever; and that it shall not be lawful for the said Gaoler, or any officer belonging to the said Gaol, to demand or receive any fee, perquisite or other payment from any Prisoner who may be confined within any of the said Gaols or Prisons.

39 GEO. III.—CAP. 3.

An Act to provide for the Education and Support of Orphan Children.

[Passed 29th June, 1799.]

Preamble.

WHEREAS it is expedient to provide for the education and support of orphan children, or children who may be deserted by their parents; *Be it, &c.*, That when the father and mother of any infant child shall die, or shall abandon their infant child or children, it shall and may be lawful for the *Town Wardens* of any Township where such child or children shall be, by and with the approbation and consent of two of his Majesty's Justices of the Peace, to bind the said child or children as apprentices, until he, she or they, shall have attained the age of twenty-one years in the case of males, and eighteen in the case of females; and an indenture to this effect, under their hands and seals, and countersigned by two Justices of the Peace, shall be good and valid in law.

Town Wardens, with approbation of two Justices, may bind orphan or abandoned infant children.

See 8 Geo. IV.
cap. 6.

The like power given to the mother, when the father abandons his infant children.

2.—*And be it, &c.*, That when the father of any infant child or children shall abandon and leave such infant child or children with the mother, it shall and may be lawful for the mother in such case, by and with the approbation of two of his Majesty's Justices of the Peace, to bind such child or children, as apprentices, until he, she or they, shall have attained the age of twenty-one years in the case of males, and eighteen in the case of females; and an indenture to that effect, under her hand and seal, and countersigned by two Justices, shall be good and valid in law.

Exemption.

3.—*Provided always, and be it, &c.*, That when the relations of any orphan or abandoned infant child or children are able and willing to support and bring them up, then and in such case it shall not be in the power of the Town Wardens to apprentice such child or children.

Further exception.

4.—*Provided also, and be it, &c.*, That no infant child or children, having attained the age of fourteen years, shall be liable to be apprenticed as aforesaid, unless he, she or they, consent thereto.

50 GEO. III.—CAP. 5.

An Act to declare the Common Gaols in the several Districts of this Province to be Houses of Correction for certain purposes.

[Passed 12th March, 1810.]

WHEREAS it is expedient that until Houses of Correction shall be erected in the several *Districts* of this Province, that the Common Gaol in each and every of the said *Districts* shall be held and taken to be, for certain purposes, a House of Correction: *Be it, &c.*, That until such Houses of Correction shall be erected as aforesaid, the Common Gaol in each of the said several *Districts* respectively shall be, and the same is hereby constituted a House of Correction; and that all and every idle and disorderly person, or rogues and vagabonds, and incorrigible rogues, or any other person or persons who may by law be subject to be committed to a House of Correction, shall be committed to the said Common Gaols in the said *Districts* respectively, any law or usage to the contrary in any wise notwithstanding.

Preamble.

See 32 Geo.
III. cap. 8;
1 Vic. cap. 5;
3 Vic. cap. 14.

Until houses of correction shall be erected, the common gaols in each respective District are constituted houses of correction.

2 GEO. IV.—CAP. 14. (2ND SESSION.)

An Act to establish the Division Line between the Second and Third Concessions of the Township of Osnabruck, in the Eastern District.

[Passed 17th January, 1822.]

Line run by Lewis Grant, Deputy Provincial Surveyor, declared to be the original and true boundary.

4 GEO. IV.—CAP. 16. (1ST SESSION.)

An Act to repeal an Act passed in the thirty-second year of His Majesty's reign, intituled, "An Act to establish the Winchester Measure, and a standard for other weights and measures throughout this Province," and to appropriate a sum of money for the purpose of obtaining a standard for weights and measures for this Province.

[Passed 19th March, 1823.]

Section 1 repeals 32 Geo. III. cap. 3.

2.—*And whereas* a sum of money is required to defray the expenses of procuring a standard for weights and measures to be used in this Province, we your Majesty's most dutiful and

£75 sterling appropriated towards purchasing a set

of standard weights and measures, to be deposited with the Secretary of the Province.

loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, beseech your Majesty that it may be enacted, *And be it, &c.*, That from and out of the duties raised, levied and collected, or hereafter to be raised, levied and collected, to and for the public uses of this Province, unappropriated, there be granted to His Majesty, His Heirs and Successors, the sum of seventy-five pounds sterling, which said sum of seventy-five pounds sterling, shall be disposed of, appropriated and applied, towards defraying the expenses of obtaining a complete set of weights and measures, according to the standard of His Majesty's Exchequer in England; which said weights and measures shall be placed and remain in the charge and custody of His Majesty's Secretary of the Province.

Secretary of the Province to furnish each District with a standard of such weights and measures as are deposited with him.

3.—*And be it, &c.*, That so soon as the majority of the Magistrates in Quarter Sessions assembled within any *District* of this Province, shall address the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for that purpose, it shall and may be lawful for him to order the said Secretary forthwith, at the cost of the said District, to furnish the said *District* with a true standard of such weights and measures as may be required by the said address, made of such durable materials as shall, by the said Secretary, be deemed most proper for that purpose.

Penalty for any trading persons having in their possession any weights or measures not stamped by the District Inspector.

6.—*And be it, &c.*, That all store-keepers, shop-keepers, millers, distillers, butchers, bakers, hucksters, and other trading persons, inhabitants of such *District*, for which a standard of such weights and measures, as aforesaid, shall have been obtained, who shall, after the expiration of six months after such standard of weights and measures shall have been received, and Inspector appointed, as aforesaid, have in his possession any weights or measures whereby he sells or buys any article, for the weighing or admeasurement of which such standard of weights and measures are generally used, any other than such weights or measures as have been examined and stamped, or marked as aforesaid, shall forfeit for every offence two pounds, provincial currency, being thereof convicted before any one or more Justice or Justices of the Peace, *on the oath of one credible witness*; which said penalty, together with all reasonable costs, shall be levied by distress and sale of the offender's goods, and in default of distress, such offender shall be committed to the common Gaol of the *District* for a term not exceeding one month.

See 3 Vic. cap. 17, sec. 3.

4 GEO. IV.—CAP. 35. (1ST SESSION.)

[Passed 19th March, 1823.]

When and so often as any Licensed Surveyor is employed to run any side line or limit between lots in the Township of Cramahe, reference is to be had only to the Western line of the Township, in that concession in which he is required to survey any such side line or limit; but Governor authorized to cause eastern line to be resurveyed, which when done is to be the true and unalterable boundary line of the township.

6 GEO. IV.—CAP. 5.

*An Act to provide for ascertaining and establishing the Division Line between the Townships of Ancaster and Flam-
borough West, in the District of Gore.*

[Passed 13th April, 1825.]

Governor authorised to have the line run and marked by permanent boundaries, placed at the governing points thereof.

7 GEO. IV.—CAP. 15.

*An Act to authorise and establish a Re-survey of the front of
the Thirteenth Concession of the Township of Townsend.*

[Passed 30th January, 1826.]

Provision made for a new survey, when corrected and confirmed notwithstanding any letters patent. Title to lands in 12th or 13th concessions not to be affected. Provision in case ejectment brought. Restraint of actions for unimproved land in consequence of intended survey.

7 GEO. IV.—CAP. 16.

*An Act to make provision for a Survey of the first, second,
and third Concessions of Fredericksburgh original, and the
whole of Fredericksburgh additional.*

[Passed 30th January, 1826.]

The course of the side lines declared—New Survey—Expenses, &c.

9 GEO. IV.—CAP. 2.

An Act for the relief of the Religious Societies therein mentioned.

[Passed 25th March, 1823.]

Preamble.

See 3 Vic.
caps. 73 & 74.

Provision in
behalf of cer-
tain religious
societies,
allowing
lands to be
held for their
use by trus-
tees and
their succe-
ssors in
perpetual
succession.

See 8 Vic. c.
15; 12 Vic. c.
91; 13 & 14
Vic. c. 78; 16
Vic. c. 126;
18 Vic. c. 119.

No one
congregation
shall hold
more than
five acres.
See 3 Vic.
c. 73.

Trust deeds
to be regis-
tered.

Conveyances
heretofore
made for the
purposes of
this Act,
made valid.

Registry.

WHEREAS religious societies of various denominations of Christians find difficulty in securing the title of land requisite for the site of a church, meeting-house or chapel, or burying-ground, for want of a corporate capacity to take and hold the same in perpetual succession; *And whereas* it is expedient to provide some safe and adequate relief in such cases: *Be it, &c.*, That whenever any religious congregation or society of Presbyterians, Lutherans, Calvinists, Methodists, Congregationalists, Independents, Anabaptists, Quakers, Menonists, Tunkers or Moravians, shall have an occasion to take a conveyance of land for and for any of the uses aforesaid, it shall and may be lawful for them to appoint Trustees, to whom, and their successors, to be appointed in such manner as shall be specified in the deed, the land requisite for all or any of the purposes aforesaid may be conveyed; and such Trustees and their successors in perpetual succession, by the name expressed in such deed, shall be capable of taking, holding and possessing such land, and of commencing and maintaining any action or actions in law or equity for the protection thereof, and of their right thereto.

2.—*And be it, &c.*, That there shall not be held in trust for the purposes aforesaid more than *five* acres of land for any one congregation.

3.—*And be it, &c.*, That such Trustees shall, within twelve months after the execution of such deed, cause the same to be registered in the office of the Register of the County in which the land lies.

4.—*And be it, &c.*, That all conveyances made before the passing of this Act, for all or any of the purposes aforesaid, shall be good and valid in law in like manner as if the same had been made after the passing of this Act, and subject to the provisions of this Act: *Provided* such conveyance shall have been already registered, or shall be hereafter registered as aforesaid, within twelve months after the passing of this Act.

9 GEO. IV.—CAP. 4.

An Act to provide for the coustruction of Aprons to Mill Dams over certain streams in this Province.

[Passed 25th March, 1828.]

WHEREAS it is expedient and found necessary to afford facility to the inhabitants of this Province engaged in the lumber trade in conveying their rafts to market, as well as for the ascent of fish in various streams now obstructed by Mill Dams, for the accommodation of those residing at a distance from the mouths thereof: *Be it, &c.,* That from and after the first day of May, in the year of our Lord one thousand eight and twenty-nine, every owner or occupier, or owners or occupiers of any Mill Dam, which is or may be legally erected, or where lumber is usually brought down the stream on which such Mill Dam is erected, or where salmon or pickerel abound therein in this Province, who shall neglect to construct, and erect a good and sufficient Apron to his or their Dam, as hereinafter set forth, shall for such offence yearly and every year forfeit and pay the sum of twenty-five pounds of current money of this Province; one moiety thereof to His Majesty, His Heirs and Successors, for the public use of the said Province and the support of the Government thereof, and the other moiety of the said sum to any person who shall sue for the same in any of His Majesty's Courts of record within this Province.

Preamble.

Owners or occupiers of mills to construct aprons to their dams.
See 12 Vic. c. 87, and 22 Vic. c. 86, s. 27.

Penalties for neglect.

Appropriation.

As to informer's share, see 6 Wm. IV. cap. 4, sec. 2; 3 Vic. caps. 21 and 22.

5.—*And be it, &c.,* That every such Apron shall be erected and constructed in the following manner, that is to say: such Apron shall not be less than eighteen feet wide, by an inclined plane of twenty-four feet eight inches to a perpendicular of six feet, and so in proportion to the height where the width of the stream will admit of it, and where such stream or Dam is less than fifteen feet wide, the whole Dam shall be Aproned in like manner with the same inclined plane.

Mode of constructing such apron.

10 GEO. IV.—CAP. 13.

An Act to provide for the guiding line in the Township of Lancaster, in the Eastern District.

[Passed 20th March, 1829.]

Western side line of the Township to be taken as the governing boundary.

10 GEO. IV.—CAP. 14.

An Act to provide for the Survey of a part of the Township of Oxford, in the Johnstown District.

[Passed 20th March, 1829.]

Surveyor General authorised to order a survey of the limit between 9th and 10th concessions.

11 GEO. IV.—CAP. 15.

An Act to confirm the Survey of a part of the Concession Line between the seventh and eighth Concessions of the Township of Cornwall.

[Passed 6th March, 1830.]

Line run by Duncan Macdonell and Thomas T. Bower, Deputy Surveyors, the true boundary between 7th and 8th concessions, reckoned on the eastern boundary line of the Township.

11 GEO. IV.—CAP. 16.

An Act to correct the Survey of the fifth Concession Line of the Township of Yonge.

[Passed 6th March, 1830.]

The survey made by Samuel Street Wilmot, D.P.S., in February, 1829, established.

1 WM. IV.—CAP. 8.

An Act to provide for settling and determining by arbitration certain difficulties that have arisen, or may arise, between persons owning land in the eighth Concession of Saltfleet, and persons owning or claiming to own lands in the first Concession of Binbrook, who through mistake may have made improvements on the rear part of the said eighth Concession of Saltfleet.

[Passed 16th March, 1831.]

Owners of land in 8th concession, Saltfleet, may refer disputes to arbitration—effect of awards.

2 WM. IV.—CAP. 19.

An Act to provide for the appointment of Commissioners to ascertain the North Boundary Line of the Township of Niagara, and to establish a Public Highway contiguous to the same.

[Passed 28th January, 1832.]

Commissioners appointed—their powers and duties—compensation.

3 WM. IV.—CAP. 38.

An Act to establish the side lines between certain lots in the Township of North Gwillimbury, in the Home District.

[Passed 13th February, 1833.]

Side lines between the lots in 3rd concession, from 9 to 30 inclusive, to be ascertained by and correspond with the posts in front of 4th concession.

4 WM. IV.—CAP. 19.

An Act to establish the present Survey of certain side lines in the second Concession west of Green Point, in the Township of Sophiasburgh.

[Passed 6th March, 1834.]

All side lines of lots in said concession, from the east line of lot No. 16 to west side line of lot No. 58, in said concession, declared to be governed and regulated by the side line between lots 22 and 23, run by John Ryder, D.P.S., in 1817.

4 WM. IV.—CAP. 20.

An Act relating to the Survey of the Gore between Fredericksburgh and Ernestown, in the Midland District.

[Passed 6th March, 1834.]

Concession line run across the Gore in front of the several concessions, commencing at the south-east angle of lot 25, in each concession, and running to the eastern limit of boundary of the Gore, and the posts or monuments erected at the eastern limit of the several concession lines in the Gore, by John S. McDonald, D.P.S., declared to be the true and lawful concession lines and eastern limit, or boundary of the Gore. Eastern boundary established and provision made for future surveys.

4 WM. IV.—CAP. 21.

An Act to provide for establishing the Concession Lines in the Township of Louth, in the District of Niagara.

[Passed 6th March, 1834.]

Commissioners appointed—their powers and duties—and remuneration.

5 WM. IV.—CAP. 10.

An Act to promote the public health, and to guard against infectious diseases in this Province.

[Passed 16th April, 1835.]

Preamble.

See 2 Vic.
cap. 21, and
12 Vic. c. 8.

Lieutenant
Governor
and Council
to appoint
Boards of
Health.

To guard against the introduction of malignant, contagious, and infectious diseases, and for the preservation of the public health of the Province: *Be it, &c.*, That it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice and consent of His Majesty's Executive Council, from time to time to appoint three or more persons in each and every Town of this Province, and in such other places as may be deemed necessary, to act as Health Officers within the limits of the Town or place for which they shall be so appointed.

Their power
and duties.

2.—*And be it, &c.*, That it shall and may be lawful for such Health Officers, or any two of them, as often as they shall think necessary, in the day time, to enter into and upon the premises of the persons resident within the limits of the Town or place for which they shall have been so appointed, and to examine the same; and if upon such examination it shall be found that the said premises are in an unclean or filthy state, or that any matter or thing exists thereon which in their opinion may endanger the public health, it shall and may be lawful for such Health Officers, or any two of them, to order and direct the proprietor or occupant of such premises to cleanse the same, and to remove whatsoever shall or may be found thereon, which in the opinion of the said Health Officers, or any two of them, may endanger the public health, and in case the proprietor or occupier of any such premises shall neglect or refuse to obey the orders and directions of such Health Officers, or any two of them, it shall and may be lawful for the said Health Officers, or any two of them, to call to their assistance all Constables and Peace Officers, and such other persons as they may think fit, and to enter on the said premises and to cleanse the same, and remove therefrom and

destroy whatsoever in their opinion it may be necessary to remove or destroy for the preservation of the public health.

3.—*And be it, &c.,* That it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice and consent of His Majesty's Executive Council, to make and declare such rules and regulations concerning the entry or departure of any boats or vessels at the different ports or other places within this Province, and the landing and receiving passengers and cargoes on board the same, as shall be thought best calculated to preserve the public health.

The Governor, &c., may make rules respecting vessels entering ports.

4.—*And be it, &c.,* That if any person or persons shall wilfully disobey or resist any lawful order of the Health Officers, duly appointed under and by virtue of this Act, or any two of them, or shall wilfully violate any rule or regulation made and declared by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice of His Majesty's Executive Council, in pursuance of the power vested in him by this Act, or shall wilfully resist or obstruct the said Health Officers in the execution of their duties, such person or persons, on being convicted of such wilful disobedience or violation of such rules and regulations, or of resistance to the said Health Officers, before two or more of His Majesty's Justices of the Peace for the *District* where such offender or offenders reside, shall forfeit and pay a fine not less than twenty shillings nor more than twenty pounds; which said fine shall and may be levied and collected by seizure and sale of such offender or offenders goods and chattels, under and by virtue of a warrant issued under the hands and seals of the Justices before whom such offender or offenders shall or may have been convicted; and shall be paid into the hands of His Majesty's Receiver-General, to and for the public uses of the Province, and be accounted for through the Lords Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall be pleased to direct.

Penalty for disobedience.

How recoverable.

5.—*And be it, &c.,* That this Act shall be and continue in force for *one year*, and from thence to the end of the then next ensuing Session of the Provincial Parliament, and no longer.

Act limited to one year. Made perpetual by 2 Vic. cap. 21.

6.—*And be it, &c.,* That in all cases in which disease of a malignant and fatal character shall be discovered to exist in any dwelling-house, or out-house temporarily occupied as a dwelling, in any City, Town, or Village, within this Province,

Proceedings
in case of
malignant
diseases in
crowded or
unhealthy
places.

which said dwelling-house or out-house shall be situated in an unhealthy or crowded part of said City, Town, or Village, or be in a neglected and filthy state, or inhabited by too many persons, it shall and may be lawful to and for the Board of Health of such City, Town, or Village, or a majority thereof, in the exercise of a sound discretion, and at the proper costs and charges of the said Board of Health, to compel the inhabitants of any such dwelling-house or out-house to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the direction and at the costs and charges of the said Board of Health, for the immediate cleansing, ventilation, purification, and disinfection, of the said dwelling-house or out-house: *Provided always*, and be it understood, that this provision shall apply and relate to all dwelling-houses and out-houses situated within one mile of any City, Town, or Village, in this Province.

5 WM. IV.—CAP. 20.

An Act to authorise a new Survey in the Township of King.

[Passed 16th April, 1835.]

New Survey under direction of Surveyor General—Extent of fronts in 9th concession to be same as in original survey—Diagram of new Survey to be lodged in office of Surveyor-General.

5 WM. IV.—CAP. 21.

An Act to establish the Boundary Lines of the Township of Wolford, in the District of Johnstown.

[Passed 16th April, 1835.]

Western boundary line of the Township declared to be the course or courses of the respective division or side lines of lots or parcels of land in the Township—Provision made for future surveys.

5 WM. IV.—CAP. 26.

An Act to appoint Commissioners to settle disputes respecting certain roads and lines in the Township of Norwich, in the District of London, and to establish the said lines and roads.

[Passed 16th April, 1835.]

Commissioners appointed—their powers and duties—and remuneration.

7 WM. IV.—CAP. 58.

An Act to establish the Boundary Lines in front of lots on the River Thames, in the Townships of Chatham and Camden, in the Western District.

[Passed 4th March, 1837.]

Boundaries between lots in front of Townships of Chatham and Camden to be ascertained and established, and to correspond with boundaries in front of Howard and Harwich. Fronts of lots on River Thames in Chatham and Camden not to extend further than as expressed in patents for same. Provision as to improvements.

7 WM. IV.—CAP. 59.

An Act to amend an Act passed in the first year of His present Majesty's reign, intituled, "An Act to provide for settling and determining by arbitration certain difficulties that have arisen, or may arise, between persons owning land in the eighth Concession of Saltfleet, and persons owning, or claiming to own, lands in the first Concession of Binbrook, who through mistake may have made improvements on the rear part of the said eighth Concession of Saltfleet."

[Passed 4th March, 1837.]

Provision in case party bound refuses or neglects to arbitrate.

1 VIC.—CAP. 21.

An Act to alter and amend sundry Acts regulating the appointment and duties of Township Officers.

[Passed 6th March, 1838.]

35.—*Provided always, that the owner of any animal or animals not permitted to run at large by the regulations of such Township meeting, shall be liable for any damage done by such animal or animals, notwithstanding that the fence enclosing the premises was not of the height required by the said regulations.*

Persons liable for damage, if cattle unlawfully allowed to run at large.

2 VIC.—CAP. 21.

An Act to continue and make perpetual an Act passed in the fifth year of the reign of King William the Fourth, intituled, "An Act to promote the public health, and to guard against infectious diseases in this Province."

[Passed 11th May, 1839.]

Said Act made perpetual.

3 VIC.—CAP. 13.

An Act to amend and make permanent an Act passed in the fifth year of His late Majesty's reign, intituled, "An Act to prevent the sale of Spirituous Liquors to Indians."

[Passed 10th February, 1840.]

Preamble.

See 5Wm.IV.
ch. 9.

No kind of
spirituous
liquors to be
sold, barter-
ed, exchanged
or given,
to any
Indian.

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the sale of spirituous liquors to Indians," will shortly expire, and it is expedient to continue and amend the same: *Be it, &c.*, That from and after the passing of this Act, it shall not be lawful for any person to sell, barter, exchange or give to any Indian man, woman or child, within this Province, any kind of spirituous liquors in any manner or way, or to cause or procure the same to be done for any purpose whatever, under the pains and penalties to be inflicted by the authority of this Act.

Justice of
Peace to fine
offender, not
exceeding
£20 for every
offence.

How fines to
be collected.

Penalty not
incurred by
furnishing
spirits by
medical
direction.

2.—*And be it, &c.*, That it shall and may be lawful for any Justice of the Peace of any *District* wherein any offence against the provisions of this Act shall have been committed, upon the testimony of one or more credible witness or witnesses, to fine the offender for each and every offence so complained of, in a sum not exceeding twenty pounds; a moiety whereof shall be paid to the informer, and the other moiety shall be collected and applied in the same manner as fines and penalties are now collected and applied under the Act for the summary punishment of petty trespasses; to be applied for the improvement of the roads through the section of the country where the offence was committed; *Provided always*, that the penalty in this Act mentioned shall not be incurred by the furnishing to any Indian any spirituous liquor by a Medical man, in case of sickness, or under the direction of any Medical man.

3 VIC.—CAP. 14.

An Act to prevent the Introduction of Spirituous Liquors into the Common Gaols of this Province.

[Passed 10th February, 1840.]

Preamble.

See 32 Geo.
III. ch. 8, sec.
15; 1 Vic. c. 5.

If any person
shall supply
spirits to a
prisoner in
gaol.

WHEREAS it is necessary to prevent the practice of secretly introducing spirituous liquors into the common Gaols of this Province: *Be it, &c.*, That if any person or persons shall, after the passing of this Act, give, convey or supply to any prisoner confined in any common Gaol or House of Correction in any *District* in this Province, any rum, brandy, whiskey or other

spirituous liquors, contrary to such rules and regulations as have been or shall be hereafter from time to time established by law, every such offender being duly convicted thereof before two Justices of the Peace, shall be liable to pay a fine not exceeding five pounds.

And be convicted before two Justices, he may be fined £5.

3 VIC.—CAP. 17.

An Act to alter and amend an Act passed in the thirty-second year of the reign of His late Majesty King George the Third, intituled, "An Act to establish the Winchester Measure throughout this Province.

[Passed 10th February, 1840.]

3.—*And be it, &c.,* That the information of the Inspector upon oath shall in future be considered *prima facie* sufficient evidence for a conviction, in not complying with the other requisitions and provisions of the said Act.

Inspector's information on oath to be *prima facie* evidence; see 12 Vic. c. 85.

3 VIC.—CAP. 73.

An Act to amend an Act passed in the ninth year of the reign of King George the Fourth, Chapter two, intituled "An Act for the relief of the Religious Societies therein mentioned."

(Royal Assent promulgated 3rd December, 1841.)

WHEREAS it is expedient and desirable to allow the several Christian denominations recognised by the Statutes of this Province, to hold lands for the support of public worship, and the propagation of Christian knowledge: *And whereas* an Act passed in the ninth year of the reign of his late most Gracious Majesty King George the Fourth, intituled "An Act for the relief of the Religious Societies therein mentioned," does not permit them to hold land for any other purpose than for the site of a Church, Meeting-House or Chapel, and Burying-ground, nor to a greater extent than five acres: *Be it, &c.,* That so much of said Act as limits the powers of the several denominations mentioned in said Act to the quantity of five acres, and to the purposes for which lands shall be held, be and the same is hereby repealed.

Preamble.

9 Geo. 4, c. 2,

Repealed.

2.—*And be it, &c.,* That the several Religious Societies mentioned in the said Act, shall and are hereby authorised to hold lands in the manner specified in said Act, for the support of public worship and the propagation of Christian knowledge, as well as for the purposes mentioned in said Act, anything in

Religious Societies entitled to hold lands.

the Statutes commonly called the Statutes of Mortmain to the contrary notwithstanding.

Roman
Catholic
Church.

3.—*And be it, &c.,* That all the rights and privileges by this Act conferred upon the religious denominations in the first recited Act mentioned, shall be deemed and taken to extend in every respect to the Roman Catholic Church, to be exercised according to the government of the said Church.

4 & 5 VIC.—CAP. 43.

An Act to repeal a certain Act therein mentioned, and to exempt the Members of Companies of Firemen, lawfully established, from serving as Jurors, or in the Militia, except in certain cases.

[18th September, 1841.]

Preamble.

A certain
Act of U. C.
repealed.

WHEREAS it is expedient to repeal an Act passed by the Parliament of the late Province of Upper Canada, in the seventh year of the reign of His late Majesty King George the Fourth, and intituled, "*An Act to make further and more effectual provision for the prevention of Accidents by Fire in the several Police Towns in this Province,*" in order to extend the provisions of the same to the whole Province of Canada, *Be it, &c.,* That the aforesaid Act shall be and is hereby repealed.

The corporate authorities, &c., in any city or town, in which a fire company may be lawfully established may cause the members of such company to be exempted from serving as jurors, and from certain other offices.

See 12 Vic. c. 36, and 14 & 15 Vic. c. 85.

2.—*And be it, &c.,* That whenever any Company or Companies shall have been regularly enrolled in any city, town or place, in which the formation of companies of firemen is by law authorized and regulated, it shall and may be lawful for the corporate authorities or Board of Police in such city or town, or if there be no such authorities or Board, for the Justices of the Peace of the *District* in which such town may be situate, in General Quarter Sessions assembled, or the majority of them, being satisfied of the efficiency of such persons and accepting their enrolment, to direct the Clerk of the Peace for the district to grant to each member of such company a certificate that he is enrolled on the same, which certificate shall exempt the individual named therein, during the period of his enrolment and his continuance in actual duty as such fireman, from Militia duty in time of peace, from serving as a juryman or a constable, and from all parish and town offices; any law, custom or usage to the contrary notwithstanding.

3.—*Provided always, and be it, &c.,* That it shall be lawful for the corporate authorities or Board of Police in any city or town, or if there be no such authorities or Board, for the Justices of the Peace for the *District*, or the majority of them, at any General or adjourned Sessions, upon complaint to them made of neglect of duty by any individual of such Fire Company, to examine into the same; and for any such cause, and also, in case any individual of such Company shall be convicted of a breach of any of the rules legally made for the regulation of the same, to strike off the name of any such individual from the list of such Company, and thenceforward the certificate which may have been granted to such individual as aforesaid shall have no effect in exempting him from any duty or service in the next preceding section of this Act mentioned: *Provided always*, nevertheless, that it shall be in the discretion of the corporate authorities or Boards of Police, or of the Justices of the Peace for the *District*, as aforesaid, respectively, to consent to the formation, as aforesaid, of any Fire Company in any such city, town or place, as aforesaid, or to defer the same until circumstances may, in their opinion, render it expedient that such Company should be formed; and that they may also, in their discretion, from time to time, discontinue or renew any such Company or Companies.

Proviso:
such exemption may be taken away in case of misconduct on the part of any member of any such company.

The said authorities may cause such companies to be formed, or defer such formation, as they deem most expedient.

4 & 5 VIC.—CAP. 70.

An Act to extend and define the limits of the Town of Woodstock in the District of Brock.

[27th August, 1841.]

WHEREAS it is expedient to extend and define the limits of the Town of Woodstock, in the *District* of Brock; *Be it, &c.,* That all that tract of land lying and being situate within the boundaries hereinafter mentioned, shall, from and after the passing of this Act, be within the Town of Woodstock; that is to say: a line commencing at a post planted at the south-east angle of lot number nineteen in the first concession of the township of Blandford, and drawn thence in a northerly direction along the east line of the said lot number nineteen to the allowance for road between the first and second concessions in the said township; thence westerly along the outside of the said allowance for road, to the river Thames; thence along the water's edge on the eastern side of the said river Thames to its junction with the Cedar Creek; thence along the water's edge on the northern side of the said Cedar Creek to the western line of the township of East Oxford; thence

Preamble.

Boundaries of the town of Woodstock extended and defined.

See 19 & 20 Vic. c. 98.

Allowances
for roads ad-
joining such
boundary to
be within
the said
town.

southerly along the said western line of the township of East Oxford to the allowance for road between the first and second concessions of the said township of East Oxford; thence easterly along the centre of the said allowance for road, to the south east angle of lot number nineteen in the first concession of the said township of East Oxford; thence northerly along the said line to Dundas Street; thence easterly along Dundas Street to the place of beginning; and all allowance for roads adjoining the said boundaries shall be included within the same and the said town of Woodstock.

4 & 5 VIC.—CAP. 75.

An Act to confirm a certain arrangement entered into by the Magistrates of the Districts of Gore and Wellington.

[18th September, 1841.]

The agreement which is recited is confirmed.

7 VIC.—CAP. 5.

An Act to regulate and facilitate the study of Anatomy.

[9th December, 1843.]

Preamble.

Certain bo-
dies may be
delivered for
dissection,

WHEREAS it is impossible to acquire a proper or sufficient knowledge of Surgery or Medicine, without a minute and practical acquaintance with the structure and uses of every portion of the human economy, which requires long and diligently prosecuted courses of dissections: And whereas the difficulties which now impede the acquisition of such knowledge amount almost to a prohibition of the same, and it has become necessary, in consideration of the rising importance of Medical Schools in this Province, and for the relief of suffering humanity, to make some legislative provision, by which duly authorised teachers of Anatomy or Surgery may be provided with the bodies necessary for the purpose of instructing the pupils under their charge: *Be it, &c.*, That the bodies of persons found dead publicly exposed, or who immediately before their death shall have been supported in and by any Public Institution receiving pecuniary aid from the Provincial Government, shall be delivered to persons qualified as herein-after mentioned, unless the person so dying shall otherwise direct: *Provided always*, that if such bodies be claimed within the usual period for interment, by *bona fide* friends or relatives, or the persons shall have otherwise directed as aforesaid before their death, they shall be delivered to them or decently interred.

Proviso.

2.—*And be it, &c.,* That the persons qualified to receive such unclaimed bodies shall be public teachers of Anatomy or Surgery, or private Medical Practitioners having three or more pupils for whose instruction such bodies shall be actually required: *Provided always,* that if there be any Public Medical School in the locality, such School shall have a preferable claim to any such body.

To whom such bodies shall be delivered.

Proviso.

3.—*And be it, &c.,* That it shall be lawful for the Governor or person administering the Government of this Province to appoint, during pleasure, a person not being a Medical Practitioner, but being a person holding some Municipal Office and unconnected with any public or private School of Medicine, to be the Inspector of Anatomy, for each City, Town, or place in which there shall be any such Public Institution or Medical School, as aforesaid.

Governor to appoint Inspectors of Anatomy in certain places.

4.—*And be it, &c.,* That the duties of each Inspector of Anatomy shall be as follows: He shall keep a Register of the name, age, sex, (and of the birth-place, if it can be ascertained) of all unclaimed bodies given up for dissection; he shall keep a Register of all Medical Practitioners duly qualified to receive and desirous of receiving bodies for dissection: he shall make an impartial distribution of the bodies in rotation, according to the actual wants of the claimants: he shall inspect the several authorized dissection rooms, at least once in every six weeks, and shall direct the removal and decent interment of any remains that he may deem it advisable to require to be interred; and shall report to the Police Magistrate or the Chief Municipal authority, any infraction of the rules of common decency, or any improper conduct which he may know to be committed by the teachers or their students: he shall keep his Registers open for the inspection of any Medical Practitioner, who may desire to inspect them.

Duties of Inspectors of Anatomy.

5.—*And be it, &c.,* That the Coroner who may preside at the inquest on any body found publicly exposed, and unclaimed by any *bona fide* friend or relative, shall give notice thereof to the Inspector of Anatomy of the locality, if there be any, failing which, he shall cause the body to be interred, as hath been heretofore customary.

Coroner to give notice of bodies found exposed.

6.—*And be it, &c.,* That the Superintendent of each Public Institution receiving Government aid, shall immediately give notice to the Inspector of Anatomy for the locality, of the death of any inmate of the Institution who shall not be known to have any friends or relatives entitled to claim the body.

Superintendents of public institutions to give notice of deaths in the same.

Register to
be kept by
such Super-
intendents.

7.—*And be it, &c.*, That each such Superintendent shall keep a Register shewing the name, age, sex, and birth-place (if known) of each person whose body shall be given over for dissection, and the name of the Medical Practitioner to whom such body shall have been delivered; and that no such Superintendent shall deliver any body, except upon the written order of the Inspector of Anatomy for the locality.

Emoluments
of the In-
spectors of
Anatomy.

8.—*And be it, &c.*, That the emoluments of the Inspector of Anatomy shall be as follows: he shall receive One Pound five shillings, currency, for every body delivered over for dissection, which sum shall be paid him by the Teacher or Medical Practitioner, on receipt of the order for its delivery.

Medical prac-
titioners
availing
themselves
of this Act to
give security.

9.—*And be it, &c.*, That every Medical practitioner wishing to avail himself of the benefits of this Act, shall appear before one of Her Majesty's Justices of the Peace and the Inspector of Anatomy, and shall give security, himself in the sum of twenty pounds with two good and sufficient securities, in the sum of ten pounds each, for the decent interment of the bodies after they shall have served the purposes required: and upon the due fulfilment of these conditions, the Inspector of Anatomy shall deliver to such Medical Practitioner a written authority to open a dissecting room entitled to the benefits of this Act.

This act is now in force
7 VIC.—CAP. 7.

An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat.

42 Can 82 Con Statutes - Canada
[9th December, 1843.]

Preamble.

WHEREAS it is the undoubted right of Her Majesty's Subjects to meet together in a peaceable and orderly manner, not only when required to do so in compliance with the express direction of law, but at such other times as they may deem it expedient so to meet for the consideration and discussion of matters of public interest, or for making known to their Gracious Sovereign or Her Representative in this Province, or to both or either Houses of Her Imperial or Provincial Parliaments, their views respecting the same, whether such be in approbation or condemnation of the conduct of public affairs: *And whereas*, from the collisions and breaches of the Peace which have of late unhappily taken place at many of such Meetings, it is expedient to make some Legislative provision for the calling and orderly holding thereof, and the better preservation of the public peace at the same: *Be it, &c.*, That

all Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any *District*, County, Riding, City, Town, Township, Ward, or Parish in this Province, which are or shall be required by law, and summoned or called in the manner hereinafter by the Fourth section of this Act prescribed, shall be and be deemed to be Public Meetings, within the meaning of this Act.

Meetings required by law, to be within protection of this Act.

2.—*And be it, &c.*, That all Public Meetings of the Inhabitants, or of any particular class of the inhabitants of any *District*, County, Riding, City, Town, Township, Ward, or Parish in this Province called by the High Sheriff of any such *District* or County, or by the Mayor or other Chief Municipal Officer of any such City or Town respectively, in the manner hereinafter by the Fifth section of this Act prescribed, upon the requisition of any twelve or more of the Freeholders, Citizens or Burgesses of such *District*, County, Riding, City, Town, Township, Ward, or Parish, having a right to vote for Members to serve in the Provincial Parliament, in respect of the property held by them within such *District*, County, Riding, City, Town, Township, Ward, or Parish respectively, and all such Meetings called by any two or more Justices of the Peace, resident in any such *District*, County, Riding, City, Town, Township, Ward, or Parish respectively, upon a like requisition from twelve or more of such Freeholders, Citizens, or Burgesses, shall be and be deemed Public Meetings, within the meaning of this Act.

Meetings called by Sheriff or two Magistrates to be within protection of this Act.

3.—*And be it, &c.*, That all Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any *District*, County, Riding, City, Town, Township, Ward or Parish in this Province, which shall be declared to be Public Meetings within the meaning of this Act, by any two Justices of the Peace resident in such *District*, County, Riding, City, Town, Township, Ward or Parish, in the manner hereinafter by the Sixth section of this Act prescribed, shall be deemed to be Public Meetings, within the meaning of this Act.

Meetings declared by two Magistrates to be within the protection of the Act to be so.

4.—*And be it, &c.*, That in every notice or summons for calling together any such Public Meeting, as in the first section of this Act is mentioned, there shall be contained a notice that such Meeting, and all persons attending the same, will be within the protection of this Act, and requiring all persons to take notice thereof and govern themselves accordingly, and which part of such notice or summons may be in the form or to the effect set forth in the Schedule to this Act annexed, marked A.

Manner of bringing meetings required by law, within protection of this Act.

Manner of bringing meetings called by Sheriffs, &c., within the protection of this Act.

5.—*And be it, &c.,* That the notice to be issued by the High Sheriff of any *District* or County, or by the Mayor, or other Chief Municipal Officer of any City or Town, or by two or more Justices of the Peace, for calling any such Public Meeting, as in the second section of this Act is mentioned, shall be issued at least three days previous to the day upon which such Meeting shall be appointed to be held, shall set forth the names of the requisitionists, or of a competent number of them, that such Meeting is called in conformity with the provisions of this Act, and that such Meeting, and all persons attending the same, will be within the protection of this Act, and that all persons are required to take notice thereof and govern themselves accordingly, and such notice may be in the form or to the effect set forth in the Schedule to this Act annexed, marked B.

Manner of bringing meetings called by private persons within protection of Act.

6.—*And be it, &c.,* That upon information on oath, before any Justice of the Peace, that any Public Meeting of the Inhabitants, or of any particular class of the Inhabitants of any *District*, County, Riding, City, Town, Township, Ward, or Parish, not being a Public Meeting of the description mentioned in the first section of this Act, or a Public Meeting called in the manner referred to in the second section of this Act, is appointed to be held at any place within the jurisdiction of such Justice, and that there is reason to believe that great numbers of persons will be present at such Meeting, it shall and may be lawful for any two Justices of the Peace, having jurisdiction within the *District*, County, City, or Town, within which such Meeting is appointed to be held, to give notice of such Meeting, and to declare the same, and all persons attending the same, within the protection of this Act, and requiring all persons to take notice thereof, and govern themselves accordingly, and which notice or declaration may be in the form or to the effect set forth in the Schedule to this Act annexed, marked C.

Sheriff and Justices calling meetings on requisition, to give certain notices.

7.—*And be it, &c.,* That it shall be the duty of every Sheriff, Mayor, Justice of the Peace, or other person who shall call any such public meeting as those in the second section of this act mentioned, to give public notice thereof, as extensively as he reasonably may, by causing to be posted and distributed throughout the *District*, County, Riding, City, Town, Township, Ward or Parish, for which the same shall be called, a competent number of printed or written copies of the notice calling the same.

Justices declaring meetings to be

8.—*And be it, &c.,* That it shall be the duty of the Justices of the Peace who shall declare any public meeting, about

to be held, to be a public meeting within the protection of this act, as in the third section of this act mentioned, to give public notice of its having been so declared, by causing to be posted and distributed throughout the *District*, County, Riding, City, Town, Township, Ward or Parish, for which the same shall have been so called, as many printed or written copies of the notice or declaration issued by them in that behalf, as may be reasonably necessary for that purpose, and as the time appointed for the holding such meeting shall reasonably admit.

within protection of Act to give certain notices.

9.—*And be it, &c.*, That it shall be the duty of every Sheriff, Mayor, Justice of the Peace, or other person who shall either call any public meeting under the provisions of the second section of this act, or declare any meeting called by others, to be a public meeting within the protection of this act, under the provisions of the third section of this act, to attend every such public meeting respectively, and whether any such Sheriff, Mayor, Justice of the Peace, or other person shall be appointed by such public meeting to take the chair and preside over the same, or not, it shall be the duty of every such Sheriff, Mayor, Justice of the Peace, and other person to continue at or near the place appointed for holding such public meeting, until the same shall have dispersed, and to afford all such assistance as may be in his power, in preserving the public peace thereat.

Sheriff and Justices calling and declaring meetings under this Act to attend same.

10.—*And be it, &c.*, That it shall be the duty of every person who shall be required by Law, or who shall have been appointed at such Public Meeting in the usual way, to preside over the same, to commence the proceedings of such Meeting by causing the Summons or notice calling such Meeting, or the Declaration whereby the same is declared to be a Public Meeting, under the protection of this Act, to be publicly read.

Chairman to read requisition and make proclamation for the preservation of order.

11.—*And be it, &c.*, That it shall be lawful for any person required by law, or who shall have been appointed at such Meeting in the usual way, to preside over the same, to cause order to be kept at such Meetings, and for that purpose by oral direction, or otherwise, to cause any person, who may attempt to interrupt or disturb such Meeting, to be removed to such a distance from the same as may effectually prevent such interruption or disturbance, and by an instrument in writing under his hand, on his own view, to adjudge any person who shall so attempt to interrupt or disturb such Meeting, to be guilty of such attempted interruption or disturbance, upon which conviction, it shall be lawful for any Justice of the Peace, by Warrant under his hand, forthwith

Chairman to remove disorderly persons, and convict on view of disturbance.

to commit such person to the Common Gaol of the *District*, or to any other place of temporary confinement that such Justice may appoint for any period not exceeding forty-eight hours from the time of such commitment signed, and until the lawful costs of the Constable and Gaoler for the arrest, transmission and detention of such person shall be paid or satisfied.

Chairman
to call on
Justice of
the Peace for
assistance.

12.—*And be it, &c.*, That for the purpose of keeping the peace and preserving good order at every such Public Meeting, it shall and may be lawful for the person so required, or appointed to preside at any such Meeting, to command the assistance of all Justices of the Peace, Constables, and other persons to aid and assist him in so doing.

Justices to
swear in
Special Con-
stables on
requisition
of Chairman.

13.—*And be it, &c.*, That it shall be the duty of any Justice of the Peace, present at any such Meeting, upon the written application of the person so required or appointed to preside at the same, to swear in such a number of Special Constables, as such Justice may deem necessary for the preservation of the public peace at such Meeting.

Persons re-
fusing to be
sworn in
guilty of a
misdemeanor.

14.—*And be it, &c.*, That if any person between the ages of eighteen and sixty, upon being required to be sworn in as a Special Constable, by any Justice of the Peace, upon any such occasion, shall omit or refuse to be so sworn, unless for some cause to be allowed by such Justice at the time, such person shall be guilty of a Misdemeanor, and it shall be lawful for such Justice thereupon, to record the refusal of such person so to be sworn, and to adjudge him to pay a fine of not more than forty shillings, which fine shall be levied and made by the like process as other fines imposed, by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or information, as in other cases of Misdemeanor.

Justices of
the Peace
may disarm
persons.

15.—*And be it, &c.*, That it shall and may be lawful for any Justice of the Peace, within whose jurisdiction any such Meeting shall be appointed to be holden, to demand, have and take of and from any person attending such Meeting, or on his way to attend the same, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like with which any such person shall be so armed, or which any such person shall have in his hands or possession, and every such person who, upon such demand, shall decline or refuse to deliver up, peaceably and quietly, to such Justice of the Peace any such offensive weapon as aforesaid, shall be deemed guilty of a Misdemeanor, and it shall be lawful for such Justice thereupon to record the refusal of such person to deliver

up such weapon, and to adjudge him to pay a fine of not more than forty shillings, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or Information, as in other cases of Misdemeanor: Provided always, that such conviction shall not interfere with the power of such Justice or any other Justice, to take such weapon or cause the same to be taken from such person without his consent, and against his will by such force as shall be necessary for that purpose.

16.—*And be it, &c.,* That upon reasonable request to any Justice of the Peace, to whom any such weapon shall have been peaceably and quietly delivered upon such demand as aforesaid to be made to such Justice, on the day next after such Meeting shall have finally dispersed, and not before, any such weapon that shall have been so peaceably and quietly delivered up to such Justice of the Peace as aforesaid, shall, if of the value of five shillings or upwards, be returned by such Justice of the Peace to the person from whom the same may have been so received as aforesaid: Provided always, that no such Justice of the Peace shall be held liable to return any such weapon, or to make good the value thereof, in case the same shall by unavoidable accident, have been actually destroyed or lost out of the possession of such Justice without his wilful default.

Certain arms to be restored to parties in certain cases.

17.—*And be it, &c.,* That any person who shall be convicted of a battery, committed during any part of the day whereon any such Public Meeting shall be appointed to be held, within the distance of two miles of the place where such meeting shall be so appointed to be held, shall be punishable by a fine of not more than twenty-five pounds, and imprisonment for not more than three Calendar months, or either, in the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person, upon his conviction.

Persons guilty of battery within two miles of meeting to be punished by certain penalties.

18.—*And be it, &c.,* That except for the High Sheriff, Under Sheriff, and Justices of the Peace for the *District* or County, or the Mayor and High Bailiff, and Justices of the Peace for the City or Town respectively, in which any such Meeting shall be held, and the Constables and Special Constables employed by them or any of them, for the preservation of the public peace at such Meeting, it shall not be lawful for any person to come during any part of the day upon which such Meeting shall be appointed to be held, within two miles of the place where such Meeting is appointed to be held, armed with any offensive weapon of any kind, as fire arms,

No one to approach armed within two miles of meeting.

swords, staves, bludgeons, or the like, and any person who shall offend against the provisions in this section contained, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding twenty-five pounds, and imprisonment not exceeding three Calendar months, or both, at the discretion of the Court, whose duty it shall be pass the sentence of the law upon such person, upon his conviction.

Persons guilty of lying in wait, how to be punished.

19.—*And be it, &c.*, That any person who shall lie in wait for any person returning or expected to return, from any such Public Meeting, with intent to commit an assault upon such person, or with intent by abusive language, opprobrious epithets, or other offensive demeanor directed to, at, or against such person, to provoke such person, or those who may accompany him to a breach of the peace, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding fifty pounds, and imprisonment not exceeding six Calendar months, or both, at the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person, upon his conviction.

Actions for any thing done under Act to be brought within twelve months.

20.—*And be it, &c.*, That every action to be brought against any person for any thing by him done under authority of this Act, shall be brought within twelve Calendar months next after the cause of such action accrued, and in default thereof the lapse of such twelve months shall be a good defence to such action.

Act to be read at Quarter Sessions for two years.

21.—*And be it, &c.*, That this Act shall be publicly read aloud at full length in open Court by the Clerk of the Peace or his Deputy, or other similar officer of the Court, on the first day of every General Quarter Sessions of the Peace that shall be held for any *District*, County, City, or Town, in this Province, within the two next years next after the passing thereof.

SCHEDULE A.

CLAUSE,

To be added to the Notice or Summons for calling any Public Meeting required by law.

Clause to be added to notice or summons for calling meetings required by law.

And be it known, that the Meeting to be held in pursuance hereof, is called in conformity with the provisions of the Act of Parliament of the (*here insert the year and chapter of this Act*) intituled, "*An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat*;" and that the said Meeting and all persons attending the same will therefore be within the protection of the said Act, of all which premises, all manner of persons are hereby in Her Majesty's name most

strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

SCHEDULE B.

NOTICE,

By Sheriff, Mayor, &c., or Justices of the Peace, for calling Public Meetings on requisition.

NOTICE.

To the Inhabitants of the District of A. (*or as the case may be*) and all others Her Majesty's Subjects whom it doth or may in anywise concern :

Whereas I, A. B., High Sheriff of, &c. (*or we, C. D. and E. F.*) two (*or whatever the number may be*) of Her Majesty's Justices of the Peace, for the District of A, resident within the said District (*or resident within the said County of B, or as the case may be*) having received a requisition, signed by I, J, K, L, &c. &c. (*inserting the names of at least twelve of the requisitionists and as many more as conveniently may be, and mentioning the number of the others thus*) and fifty-six (*or as the case may be*) others, who (*or "twelve of whom"*) are freeholders of the said District, (*or "Citizens of the said City"*) having a right to vote for members to serve in the Provincial Parliament, in respect of the property held by them within the said District, (*or "City," &c., as the case may be*) requesting me (*or "us"*) to call a Public Meeting of (*here recite the requisition*). And whereas, I (*or we*) have determined to comply with the said requisition, now, therefore, I (*or we*) do hereby appoint the said Meeting to be held at —, (*here state the place*) on —, the — day of —, next, (*or instant*) at — of the clock in the — noon, of which all persons are hereby required to take notice. And whereas the said Meeting hath been so called by me (*or us*) in conformity with the provisions of the Act of Parliament of the (*here insert the year and chapter of this Act*), intituled, *An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat*, and the said Meeting and all persons who may attend the same will therefore be within the protection of the said Act, of all which premises all manner of persons are hereby in Her Majesty's Name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness my hand (*or our hands,*) at — in the District of —, this — day of —, 18—.

A. B., Sheriff, or
C. D., J. P.
E. F., J. P.

Notice by
Sheriff,
Mayor, or
Justices call-
ing public
meeting on
requisition.

See 12 Vic
cap. 78.

SCHEDULE C.

Notice and Declaration by Justices of the Peace, that a Meeting about to be held shall be within the protection of this Act.

NOTICE AND DECLARATION.

To the Inhabitants of the District of A. (*or as the case may be*) and all others Her Majesty's subjects whom it doth or may in anywise concern :

Notice and declaration by Justices, that public meeting about to be held, shall be within protection of the Act.

See 12 Vic. cap. 78.

Whereas, by Information on oath, taken before D. E., Esquire, one of Her Majesty's Justices of the Peace for the District of C. (*or "City of," as the case may be,*) within which the meeting hereinafter mentioned is appointed to be held, it appears that a Public Meeting of the Inhabitants (*or householders, &c., as the case may be,*) of the District of G. (*or, as the case may be,*) is appointed to be held at —, in the said District (*or, as the case may be,*) on —, the — day of — next (*or instant*) at — of the clock in the — noon, or at some other hour on the same day ; and that there is reason to believe that great numbers of persons will be present at such Meeting ; and whereas it appears expedient to us, C. D. and E. F., two (*or whatever the number may be*) of Her Majesty's Justices of the Peace, having Jurisdiction within the said District (*or as the case may be*) that with a view to the more orderly holding of the said Meeting, and the better preservation of the public peace at the same, the said Meeting, and all persons who may attend the same, should be declared within the protection of a certain Act of Parliament of the (*here insert the year and chapter of this Act*) intituled *An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat* : Now, therefore, in pursuance of the provisions of the said Act and the authority in us vested by virtue of the same, We, the said Justices, do hereby give notice of the holding of the said Meeting, and do hereby declare the said Public Meeting, and all persons who may attend the same, to be within the protection of the said Act of Parliament ; of all which premises all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness our hands, at —, in the District of —, this — day of — 18 —.

C. D., J. P.
E. F., J. P.
&c.

7 VIC.—CAP. 14.

An Act to Exempt Vehicles conveying Manure from the Cities and Towns of this Province from the payment of Tolls on Turnpike Roads, and for the purposes therein mentioned.

[9th December, 1843.]

WHEREAS, as well for the encouragement of Agriculture as for promoting the cleanliness and health of the several Cities and Towns in this Province, by the removal of the filth and rubbish thereof, it is expedient that vehicles carrying Manure from the said cities and towns to the farms in the vicinity thereof be free from toll at turnpike gates: *Be it, &c.*, That each and every vehicle laden solely with manure, brought from any city in Lower Canada, or any city or incorporated town in Upper Canada, and employed to carry the same into the country parts for the purposes of agriculture, and the horse or horses, or other beast or beasts of draught, drawing such vehicle, shall, from and after the passing of this Act, pass toll-free through any turnpike gate or toll gate on any turnpike road within twenty miles of such city or town, as well in going from such city or town as in returning thereto, if then empty, whether such turnpike road and the tolls thereon belong to the province, or to any local or municipal authority, or body of trustees or commissioners for local purposes, or to any incorporated or unincorporated company, or to any other body, person or persons whatsoever, and any statute, ordinance or law to the contrary notwithstanding.

Preamble.

Vehicles laden solely with manure brought from the cities and towns of this Province to be exempt from toll at turnpikes within twenty miles of such cities.

2.—*And be it, &c.*, That all persons going to or returning from divine service on any Sunday or Obligatory Holiday, in or upon and with their own carriages, horses or other beasts of draught, shall, as shall also their families, and servants being in or upon and with such carriages, horses or other beasts of draught, pass toll free through any turnpike or toll gate on any turnpike road in this province; anything in any act, ordinance or law to the contrary notwithstanding.

No tolls to be collected on Sundays from persons going to Church.

See 16 Vic. c. 190, s. 39.

3.—*And be it, &c.*, That no vehicle, laden or unladen, horses or cattle belonging to the proprietor or occupier of any lands divided by such turnpike road as aforesaid, shall be liable to toll on passing through any toll gate on such road (at whatever distance the same may be from any city or town) for the sole purpose of going from one part of the lands of such proprietor or occupier to another part of the same; *Provided* such vehicle, horses or cattle do not proceed more than half a mile along such turnpike road, either in going or in returning, for farming or domestic purposes only.

No tolls to be charged for going on a turnpike from one part of a person's land to another within half a mile.

Act not to extend to any private toll bridge.

4.—*Provided always, and be it, &c.,* That nothing in the foregoing enactments of this act shall extend or be construed to extend to any toll bridge, the tolls on which are vested in any party other than the Crown.

7 VIC.—CAP. 36.

An Act to prevent obstructions in Rivers and Rivulets, in Upper Canada.

[9th December, 1843.]

Preamble.

WHEREAS great inconvenience is occasioned by persons throwing slabs, bark, waste stuff, and other refuse of saw mills, stumps and waste timber, or leached ashes, into the rivers and rivulets in Upper Canada, and it is expedient to prevent the said practice: *Be it, &c.,* That any person who shall throw into any river, rivulet or watercourse, or any owner or occupier of a mill who shall suffer or permit to be thrown in that part of this province heretofore known as Upper Canada, any slabs, bark, waste stuff, or other refuse of any saw mill (except saw dust), or any stumps, roots or waste timber or leached ashes, and shall allow the same to remain in such river, rivulet or watercourse, shall thereby incur a penalty not exceeding five pounds, currency, and not less than one shilling, currency, for each day during which such obstruction shall remain therein, over and above all damages which may arise therefrom; and that such penalty and damages shall and may be respectively recovered with costs, in a summary way, before any one or more Justices of the Peace, in the manner provided by an Act passed in the fourth and fifth years of Her Majesty's reign, chapter twenty six, intituled, *An Act for consolidating and amending the laws in this Province relative to malicious injuries to property.*

Penalty on persons throwing certain things into rivers and rivulets.

Penalty and damages, how recovered.

Penalty imposed not to exceed a certain sum.

Appeal given.

2.—*Provided always, and be it, &c.,* That in no such case shall the amount levied exceed five pounds, currency, and costs; and that any party who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the Court of General Quarter Sessions of the District, in the manner and under the conditions and provisions of the Act last above cited, with regard to appeals from convictions and decisions under that Act.

Appropriation of penalties.

3.—*And be it, &c.,* That of all pecuniary penalties levied under this Act, one third shall go to the informer, and the other two thirds to the Township in which the offence shall have been committed, and shall be expended in improving the

Public Highways therein, and in case of damages to private property arising out of a violation of this Act, the assessed damages shall be paid to the party aggrieved, except in cases where the party shall have been examined in proof of the offence in which case the same shall be applied to the improvement of the public highways in the Township as above provided, any law to the contrary notwithstanding.

Assessed damages how to be applied.

4.—*And be it, &c.*, That in every case of conviction under this Act, when the sum which shall be forfeited for the amount of injury done, or which shall be imposed as a penalty, together with the costs, shall not be paid at the time stated in the conviction, or appealed from, it shall be lawful for the convicting Justice to issue his warrant of distress, and in case there shall not be sufficient goods and chattels found to satisfy the same, to commit the offender to the common gaol of the respective County or *District*, until the fine or damages (as the case may be) and costs, be paid, not however, exceeding thirty days.

Damages if not paid, the party injuring to be imprisoned.

5.—*And be it, &c.*, That this Act shall be and remain in force for the full term of *four* years from the passing thereof, and from thence until the end of the next Session of the Provincial Parliament, and no longer.

See 10 & 11 Vic. c. 20; 14 & 15 Vic. c. 123; 16 Vic. c. 151; 18 Vic. c. 85; 19 & 20 Vic. c. 85; 20 Vic. c. 81.

7 VIC.—CAP. 39.

An Act to divide the Township of Hawkesbury, in the Ottawa District into two Townships.

[9th December, 1843.]

WHEREAS the Inhabitants of the Township of Hawkesbury, in the Ottawa *District*, have by their Petition to the Legislature, represented, that by reason of the extent and the peculiar local circumstances of the said Township, it would be of advantage that the same should be divided into two Townships in the manner hereinafter mentioned, and it is expedient to grant the prayer of the said Petitioners; *Be it, &c.*, That the said Township of Hawkesbury shall be and is hereby divided for all purposes whatsoever, into two Townships, the one to be called the Township of East Hawkesbury, and the other to be called the Township of West Hawkesbury; and the said Township of East Hawkesbury shall include and consist of all that part of the present Township of Hawkesbury lying between the Eastern boundary thereof and the Western line of the Lots Number Thirty-Seven in each of the Concessions from the River Ottawa to the rear Line of the said Township: and the remainder of the said Township shall form the said Township of West Hawkesbury.

Preamble.

The township of Hawkesbury divided into two townships.

7 VIC.—CAP. 40.

An Act to amend the act relating to the Boundary Line between the Niagara and Gore Districts.

[9th December, 1843.]

Preamble.

The line between certain townships, to be the line between the Districts of Niagara and Gore.

WHEREAS doubts have arisen as to the true construction of certain parts of the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-sixth year of the Reign of his late Majesty, King George the Third, and intituled, *An Act to grant and form a new District out of certain parts of the Home and Niagara Districts, to be called the District of Gore*, which relate to the Boundary Line between the Districts of Niagara and Gore, and it is expedient to remove such doubts by defining more accurately the said Boundary Line: *Be it, &c.*, That the present Division Line between the Townships of Oneida, and Seneca, in the District of Niagara, and the Townships of Tuscarora and Onondaga, in the District of Gore, shall form and be a part of the Boundary Line between the said District of Niagara and the said District of Gore; any thing in the Act cited in the Preamble to this Act, to the contrary notwithstanding.

7 VIC.—CAP. 42.

An Act for better defining and establishing the Eastern boundary line of the third Concession of the Township of Cornwall, in the Eastern District.

[9th December, 1843.]

The line run by Jeremiah McCarthy declared to be the governing line of 3rd concession of Cornwall.

8 VIC.—CAP. 6.

An Act for the better preservation of the Peace, and the prevention of Riots and violent Outrages at and near Public Works while in progress of construction.

[17th March, 1845.]

Preamble.

The Governor in Council may by proclamation declare this Act to be in force in any locality

WHEREAS it is necessary to make further provision for the preservation of the peace, and for the protection of the lives, persons, and property of her Majesty's subjects, in the neighbourhood of public works on which large bodies of labourers are congregated and employed: *Be it, &c.*, That it shall be lawful for the Governor in Council, from time to time, and as often as occasion shall require, to declare by Proclamation the several places in this Province, within the limits whereof any Canal or other public work whatsoever shall be in progress of

construction, or such places as shall be in the vicinity of any such Canal or other public work, within which it shall be found necessary that this Act shall come into force and effect; and that this Act shall, upon, from, and after the day to be named in any such Proclamation, take effect and come into force and operation within the places designated in and by such Proclamation; and it shall also be lawful for the Governor in Council in like manner, from time to time, to declare this Act to be no longer in force in any of such places as aforesaid; but this shall not prevent the Governor in Council from again declaring the same to be in force in any such place or places: *Provided always*, That no such Proclamation shall in any case have force or effect within the limits of any city in this Province.

in which public works are being carried on.

See 14 & 15 Vic. c. 76.

And again extend it to such locality.

And may in like manner declare this Act to be no longer in force in any such locality.

2.—*And be it, &c.*, That upon and after the day to be fixed in such Proclamation for that purpose, no person employed in or upon any such Canal or other public work within the limits specified in such Proclamation, shall have or keep in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol, or other fire-arm, or any stock, lock, barrel, or any other part of such gun, blunderbuss, pistol, or other fire-arm, or any bullets, sword, sword blade, bayonet, pike, pikehead, spear, spearhead, dirk, dagger, or other instrument intended for cutting or stabbing, or other arms, ammunition, or weapon of war, under a penalty of not less than ten shillings, nor more than twenty shillings, for every such weapon found in his possession.

While this Act shall be in force in any locality, no person there resident shall have any arms or weapons of war, unless duly licensed to keep the same.

3.—*And be it, &c.*, That within the time appointed as aforesaid in such Proclamation, every person employed in or upon the canal or public work to which the same shall relate, shall bring or deliver up to some Magistrate or Commissioner, to be appointed by the Governor for the purposes of this Act, every such weapon as aforesaid in his possession, and shall obtain from such Magistrate or Commissioner a receipt for the same.

Weapons to be delivered to Magistrate, and receipt given for same.

4.—*And be it, &c.*, That when this Act shall cease to be in force within the place where any weapon shall have been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to any such weapon shall satisfy the Magistrate or Commissioner that he is about to remove immediately from the limits within which this Act shall at the time be in force, it shall be lawful for the Magistrate or Commissioner to deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it as aforesaid.

Weapons so detained to be returned when this Act shall cease to be in force, &c.

Weapons unlawfully kept, may be seized, and shall be forfeited.

5.—*And be it, &c.,* That every such weapon which shall be found in the possession of any person employed as aforesaid, after the day named in any Proclamation, as that on or before which such weapon ought to be delivered up as aforesaid, and within the limits or locality set forth in the Proclamation bringing this Act into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable, or other Peace Officer, shall be forfeited to the use of Her Majesty, her heirs and successors.

Penalty on persons in the limits in which this Act shall be in force, keeping arms belonging to labourers on the public works, for keeping which a license ought to be taken out.

6.—*And be it, &c.,* That if any person shall, for the purpose of defeating this Act, harbour, receive or conceal, or aid or assist in harbouring, receiving or concealing, or cause or procure to be harboured, received or concealed, at any place within the limits or locality within which this Act shall at the time be in force, any such weapon as aforesaid, belonging to or in the care and custody of any person employed on any canal or other public work in this Province, every such person shall forfeit a sum of not less than ten pounds nor more than twenty-five pounds; one-half to belong to the informer and the other half to Her Majesty, her heirs and successors.

On a sufficient affidavit, any Justice of the Peace may authorize a search for and seizure of unlicensed arms, where this Act shall be in force.

7.—*And be it, &c.,* That any Justice of the Peace, or Commissioner appointed under this Act, having authority within the place or places within which this Act shall at the time be in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person, contrary to the provisions of this Act, or in any house or place, may issue his warrant to any Constable or Peace Officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place; and in case admission to any such house or place cannot be obtained within a reasonable time after demand, such Constable or Peace Officer, and persons in his aid, may enter the same by force by day or by night, and seize such weapon; and unless the party within whose possession or in whose house or place the same shall have been found, do, within four days next after the seizure, prove to the satisfaction of such Judge or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the true spirit and meaning of this Act, such weapon shall be forfeited to the use of her Majesty, her heirs or successors.

Forcible entry in case admission be refused to the officer.

Weapons, &c., seized to be forfeited unless proved to have been lawfully kept.

Persons carrying weapons in places

8.—*And be it, &c.,* That any Justice or Commissioner, Constable or Peace Officer, or any person acting under a Justice's or Commissioner's warrant, or in aid of any Justice,

Commissioner, Constable or Peace Officer, may arrest and detain any person employed on any canal or other public work, found carrying any such weapon as aforesaid, within the limits or locality within which this Act shall at the time be in force, at such time and in such manner as in the judgment of such Justice, Commissioner, Constable or Peace Officer, or person acting under a warrant, shall afford just cause of suspicion that they are carried for purposes dangerous to the public peace, and the act of so carrying any such weapon by any person so employed as aforesaid, shall be a misdemeanor, and the Justice or Commissioner who shall arrest such person, or before whom he shall be brought under such warrant, may commit him for trial for a misdemeanor, unless he shall give sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any indictment to be preferred against him.

where this Act shall be in force, under circumstances of suspicion, may be arrested.

Such person may be committed for trial for a misdemeanor.

9.—*And be it, &c.,* That every such Justice or Commissioner as aforesaid shall make a monthly return to the Secretary of the Province of all weapons which shall have been delivered to him, and which he shall have detained under the provisions of this Act.

Commissioners to make a monthly return of licences, &c.

10.—*And be it, &c.,* That all weapons declared forfeited under the authority of this Act, shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such Justice or Commissioner and be paid over by him to the Receiver General of this Province for the public uses thereof.

Weapons forfeited to be sold.

Proceeds how applied.

11.—*And be it, &c.,* That any action which shall be brought against any Justice or Commissioner, Constable, Peace Officer, or other person, for any thing done in pursuance of this Act, shall be commenced within six calendar months next after the fact; and the venue shall be laid or the action instituted in the *District* where the fact was committed; and the defendant may plead the general issue and give this Act and the special matter in evidence; and if such action shall be brought after the time limited, or the venue be laid or the action brought in any other *District* than as above declared, the jury shall find for the defendant; and in such case, or if the verdict be given for the defendant on the merits, or if the plaintiff becomes nonsuit or discontinues after appearance is entered, or have judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs.

Time for action for any thing done under this Act limited.

Venue, &c.

Defendant, if successful, to have double costs.

Before whom penalties imposed by this Act may be recovered, and on what evidence.

12.—*And be it, &c.,* That all penalties imposed by this Act, may be prosecuted and recovered before any two Justices of the Peace acting for the *District* within which the fact, in respect of which such penalty is sought to be recovered, happened or was committed; and such Justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall, on the offender being brought before them, hear the complaint and adjudge upon the same; and if the offender be convicted on the oath of one witness other than the informer, or by his own confession, the Justices shall impose such penalty.

A Mounted Police Force may be raised and employed for better carrying this Act into effect.

13.—And for better carrying this Act into effect and more effectually ensuring the preservation of the peace, and that safety to the lives and property of her Majesty's subjects which it is the object of the Act to attain; *Be it, &c.,* That it shall be lawful for the Governor in Council to cause a body of men not exceeding in number one hundred inclusive of officers, and to be called *The Mounted Police Force*, to be raised, mounted, armed and equipped, and to be placed under the command and orders of such Chief Officer and Subordinate Officers as the Governor in Council may deem necessary, and to cause such Police Force or any portion thereof, to be employed in any place in this province in which this Act shall be then in force, under and subject to such orders, rules and regulations, as the Governor in Council shall from time to time make or issue.

Officers of Police Force and others may be appointed Justices of the Peace for certain localities, without a property qualification.

14.—*And be it, &c.,* That it shall be lawful for the Governor of this Province to appoint the Chief Officer and such of the Subordinate Officers of the said *Mounted Police Force*, and such other persons as he may deem necessary, to be respectively Justices of the Peace for the purposes of this Act, within all or any of the places in which this Act shall be in force; and such officers and persons respectively may be so appointed, and may act as Justices of the Peace, although they may not have the qualification in property required of other persons so appointed or acting elsewhere; *Provided always,* That in so far as may regard the detention, conveyance to gaol and imprisonment of any person committed by any Justice of the Peace appointed under the authority of this Act, his order and commitment shall be valid, and shall be obeyed and executed, although the common gaol to which the prisoner may be committed, be out of the limits of any place within which this Act shall have been proclaimed to be in force.

Proviso as to committals by such Justices to gaols out of the limits of such localities.

15.—*And be it, &c.,* That the men employed in the said *Mounted Police Force* shall be, and are hereby declared to be respectively Constables and Peace Officers for the purposes of this Act, for the *District* in which they shall be employed for the time being.

Mounted Policemen to be Constables and Peace Officers.

16.—*And be it, &c.,* That the expenses to be incurred in carrying this Act into effect, shall be paid through the Board of Works out of the monies appropriated for the work on which such expenses shall be respectively incurred, and shall be charged and accounted for as part of the cost of such work, and the sum to be so charged against each work, shall be as nearly as possible in proportion to the number of Policemen employed on such work and the time during which they shall be so employed—provided the sum so expended in any one year shall not exceed the sum of ten thousand pounds currency.

Expenses of carrying the Act into effect to be defrayed by the Board of Works, and to be proportionally paid out of the monies appropriated for the public works.

17.—*And be it, &c.,* That in construing this Act, the term “Governor” shall be held to include the Governor, Lieutenant Governor, or person administering the Government of this Province; the words “Governor in Council” shall mean the Governor or person administering the Government, acting by and with the advice of the Executive Council thereof; and the term “weapon” shall be held to include every species of weapon, arms or ammunition, enumerated in the second section of this Act; and that words in the singular number shall be held to extend to and include several persons, matters or things as well as one person, matter or thing, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male.

Interpretation clause.

18.—*And be it, &c.,* That this Act shall continue in force for *two years*, and from thence to the end of the next ensuing session of Parliament and no longer.

See 10 & 11 Vic. c. 8; 11 Vic. c. 3; 12 Vic. c. 17; 13 & 14 Vic. c. 10; 14 & 15 Vic. c. 68; 19 & 20 Vic. c. 85; 20 Vic. c. 81.

8 VIC.—CAP. 11.

An Act to abolish the Office of Surveyor General, and to provide for the performance of the duties of that Office by the Commissioner of Crown Lands.

[17th March, 1845.]

WHEREAS, it hath become expedient to abolish the office of Surveyor General; and to cause the duties thereof to be performed by the Commissioner of Crown Lands; *And whereas*, by divers Statutes of this Province, or of the late Provinces of Upper and Lower Canada, respectively, many powers and

Preamble.

Departments
of the Sur-
veyor Gen-
eral and
Commission-
er of Crown
Lands con-
solidated.

Powers and
duties of the
Surveyor
General to be
exercised
and per-
formed by
the Commis-
sioner of
Crown
Lands.

duties are assigned to the Surveyor General, for the exercise and performance of which it is necessary to provide: *Be it, &c.*, That from and after the passing of this Act, the department and office of the Surveyor General of this Province, shall be consolidated with the department and office of the Commissioner of Crown Lands, under the superintendence and management of the last named officer.

2.—*And be it, &c.*, That from and after the passing of this Act, all the powers and duties which theretofore were by any Act, Ordinance or Law in force in this Province, assigned to or vested in the Surveyor General, shall become and be vested in the Commissioner of Crown Lands for the time being; and the said powers and duties, or any of them, shall and may be exercised and performed by him, or by any Assistant or Clerk in his department or office, or other person whom he shall by any instrument in writing under his hand, authorize to exercise or perform the same, or any of them, as fully and effectually to all intents and purposes as they might before the passing of this Act have been exercised or performed by the Surveyor General; any law, usage, or custom to the contrary notwithstanding.

8 VIC.—CAP. 15.

An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada, to other Denominations of Christians than those therein enumerated.

[17th March, 1845.]

Preamble.

WHEREAS, Religious Societies of various Denominations of Christians, in Upper Canada, find difficulty in securing titles to the land requisite for the site of a Church, Chapel, Meeting House, Burial Ground, and residence for their Minister, for want of a corporate capacity to take and hold the same in perpetual succession; *And whereas*, to afford some safe and adequate relief in such cases, it is just and expedient to extend the provisions of a certain Act of the Parliament of the late Province of Upper Canada, passed in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, *An Act for the relief of the Religious Societies therein mentioned*, as amended by a certain other Act of the Parliament of the said Province, passed in the third year of Her Majesty's Reign intituled, *An Act to amend an Act passed in the ninth year of the reign of King George the Fourth, cap. 2, intituled, "An Act for the relief of the Religious Societies therein mentioned,"* to other denominations of Christians than those therein enu-

Act of Upper
Canada, 9
Geo. IV. c. 2,
cited.

merated : *Be it, &c.*, That whenever any Religious Society or Congregation of Christians, in that part of the Province called Upper Canada, shall have occasion to take a conveyance of of land for any of the uses aforesaid, it shall and may be lawful for them to appoint Trustees, to whom and to whose successors, to be appointed in such manner as shall be specified in the deed of conveyance, the land requisite for all or any of the purposes aforesaid may be conveyed ; and such Trustees and their successors in perpetual succession, by the name expressed in such deed of conveyance, shall be capable of taking, holding, and possessing such land, and of commencing, maintaining, and defending any action or actions in law or equity for the protection thereof, and of their rights and property therein ; anything in the Statutes commonly called the Statutes of Mortmain, or any other Law to the contrary hereof notwithstanding.

Any religious congregation of Christians may hold land for purposes connected with the exercise of their religion.

See 12 Vic. c. 91 ; 13 & 14 Vic. c. 78 ; 16 Vic. c. 126 ; 18 Vic. c. 119 ; 20 Vic. c. 66.

2.—*Provided always, and be it, &c.*, That such Trustees shall, within twelve months after the execution of such deed of conveyance, cause the same to be registered in the office of the Registrar of the County in which the said land is situate.

Provido, conveyance to be enregistered within twelve months.

8 VIC.—CAP. 20.

An Act to repeal an Act therein mentioned, and to provide for the regulation of Line Fences and Water Courses in Upper Canada.

[17th March, 1845.]

WHEREAS it is expedient to repeal the Act hereinafter mentioned, and to make better provision for the regulation of Line Fences and Water Courses in Upper Canada : *Be it, &c.*, That it shall and may be lawful for the *inhabitant freeholders and householders* of each and every Township in that part of this Province formerly Upper Canada, at their annual Township Meeting for the election of Township Officers, to choose from among the inhabitants of the said Township, in the same manner as by law other Township Officers are chosen, not less than three nor more than twelve fit and proper persons to serve the office of Fence Viewers, who shall perform the duties hereinafter prescribed to Fence Viewers, which Fence Viewers are hereby declared to be Township Officers within the meaning of the Act of Upper Canada passed in the first year of Her Majesty's Reign, and intituled, *An Act to alter and amend sundry Acts regulating the appointment and duties of Township Officers*, and shall accordingly make the like declaration, and shall be liable to all the penalties by the said Act imposed for

Preamble.

So much of this section as vested the appointment of fence viewers in the inhabitant freeholders and householder was repealed by 12 Vic. c. 80, No. 47.

Fence Viewers to be chosen at township meetings, and to be township officers within the meaning of 1 Vic. c. 21.

neglect or refusal to perform their duties, and shall be bound by all the provisions thereof applicable to Township Officers generally.

Fence View-
ers shall
have power,
on the appli-
cation of
parties being
neighbours,
to assign to
each the
share of the
line fence he
is bound to
keep up.

2.—*And be it, &c.,* That each of the parties occupying adjoining tracts of land, shall keep up, make and repair a fair and just proportion of the Division or Line Fence between their several tracts of land, which Line Fence shall be made on the line dividing such tracts of land, and equally on either side thereof; and that where there shall be a dispute between the parties as to the commencement or extent of the part of the said Division or Line Fence which either party may claim or refuse to make or repair, it shall and may be lawful for either party to submit the same to the determination and award of three Fence Viewers, which Fence Viewers are hereby authorized and required, upon being duly notified by either party in such case, to attend at the time and place stated in such notice, and after being satisfied that the other party or parties in the case have been duly notified to appear at the same time and place, to proceed to examine the premises; and such Fence Viewers or any two of them shall determine any and every dispute in the matter aforesaid between the said parties: And the award and determination of such Fence Viewers or any two of them on the matters aforesaid, shall be binding on the parties as far as concerns the making or repairing of such Division or Line Fence, and from thenceforth the occupier or occupiers of the said tracts or parcels of land shall respectively make and repair and keep in repair that part of such Division or Line Fence which shall have been assigned in such award or determination to the occupier or occupiers of such tract or parcel of land, which determination and award shall be made in writing and signed by such Fence Viewers or a majority of them, and filed with the Town Clerk, and a copy of the same if so required given to each of the said parties: *Provided always,* that when by reason of any material change of circumstances in respect to the improvement and occupation of adjacent lots or parcels of land, an award which has been made under this Act shall cease, in the opinion of either of the parties, to be equitable between them, it shall be in the power of either to obtain another award of Fence Viewers by the same mode of proceeding as is hereinbefore directed: and that if the Fence Viewers who shall have been called upon to make such subsequent award shall find no reason for making an alteration, the whole cost of such reference shall be borne by the party at whose instance it shall have been made.

Award how
to be made
and en-
forced.

Proviso, in
certain cases
a new award
may be
obtained.

3.—*And be it, &c.,* That if any party who may be in the occupation of any tract or parcel of land, shall neglect or refuse to make or repair (as the case may be) an equal or just proportion of the Division or Line Fence between such tract or parcel of land and the adjoining tract or parcel of land, for a period of thirty days after being required by a demand in writing, by the party occupying such adjoining tract or parcel of land, or after the award of the Fence Viewers as aforesaid, to make or repair such equal or just proportion of the Division or Line Fence, or if the party making the demand shall for such period neglect or refuse to make or repair an equal or just proportion of the Division or Line Fence, it shall and may be lawful for either of the said parties, after first completing his own proportion of such Fence, to make or repair, in a substantial manner and of good sound materials, the whole or any part of the said Division or Line Fence, which ought to have been by the other party made or repaired, and to recover, in the manner hereinafter mentioned, of the party who may have neglected or refused in manner aforesaid to make or repair such proportion of the Division or Line Fence, the just and full value of such proportion not exceeding the sum of *two shillings and six pence per rod*, to be ascertained and determined in the manner hereinafter provided: *Provided always*, that any Fence coming within the meaning and intent of the resolution adopted by the inhabitant householders and freeholders, at their last annual Township Meeting, shall be considered by all Fence Viewers to be a lawful Fence, and when no such resolution shall have been adopted, then and in that case it shall be lawful for such Fence Viewers, when called upon, to exercise their own judgment and decide what they consider to be a lawful Fence.

If either party refuse to make his share of a line fence, the other party may make it and recover the costs.

See 18 Vic c 137.

Proviso: a fence shall be considered sufficient if it be within the description declared to be so by resolution of the township meeting. If there be no resolution, fence viewers to have a discretion.

4.—*And be it, &c.,* That it shall and may be lawful for any Justice of the Peace, residing within the Township in which such Fence may be situated, and if there be no such Justice residing in the said Township, then any other Justice of the Peace residing in any adjacent Township, and he is hereby required, upon the demand of any party interested, to issue a Summons under his hand and seal directed to three Fence Viewers (by their proper names) of the Township in which such Fence is situated, requiring them to attend at the place and on the day and hour therein mentioned, to view such Fence and to appraise the same; and also to issue a Summons to the party so having neglected or refused to make or repair such proportion of the Division or Line Fence, (who shall thenceforth be considered as the party defendant in the case),

A Justice of the Peace may enforce payment of the costs of the fence made by a party for his neighbour under the next preceding section, first procuring a report of fence viewers.

requiring him or them to appear at the same time and place, to shew cause why the party claiming payment as aforesaid (who shall thenceforth be considered as the party plaintiff in the case) should not recover the same.

Duty of the
fence viewers
in making
such report.

To what
point the
report shall
extend.

Copy may be
required by
either party.

Witnesses
may be sum-
moned.

And sworn.

The oath.

5.—*And be it, &c.,* That such Fence Viewers, upon being personally served at least four days previously with such Summons, and any two of them being there then present, and after having duly examined the Fence and received evidence, which, if required by either party, and if the said Fence Viewers shall think it expedient, shall be given under oath, they or any two of them shall determine whether the said party plaintiff is entitled to recover any or what sum from the party defendant under the provisions of this Act; and in all cases where the commencement or extent of the part of such Division or Line Fence which each should make or repair has not been determined by the award of Fence Viewers as aforesaid, the said Fence Viewers or any two of them shall determine the same, (which determination shall be final and binding on the occupiers of the said tracts or parcels of land, and have the same effect as if it had been made by the Fence Viewers in the manner first before mentioned,) and shall report their determination upon the matters aforesaid in writing under their hands to the Justice by whom the Summons shall have been issued, and shall also, in all cases where they determine that the plaintiff or plaintiffs is or are entitled to recover any thing from the defendant or defendants, state what distance of Fence they have determined that the defendant or defendants should have made or repaired; and the said Fence Viewers, if they shall be required by either party, before they shall have made a report as aforesaid to the said Justice, shall give to such party requiring the same a true copy of their said determination.

6.—*And be it, &c.,* That if either of the said parties shall desire to procure the attendance of any person or persons to give evidence before such Fence Viewers, it shall and may be lawful for the said Justice to issue, upon the application of either of the said parties, a Summons to any person or persons to attend as a witness or witnesses before the said Fence Viewers at the time and place mentioned in the said Summons to the Fence Viewers; and that the said Fence Viewers, when met as aforesaid at the time and place mentioned in the Summons, shall be and are hereby authorized, whenever it shall be desired by either party or they shall think it proper, to administer an oath to any witness, which oath shall be in the following form: "You do solemnly swear that

you will true answer make to such questions as may be asked of you by either of the Fence Viewers now present, touching the matters which they are now to examine and determine: So help you God." And if any person giving evidence as aforesaid under oath shall be guilty of false swearing, he shall be guilty of wilful and corrupt perjury, and upon conviction thereof shall be liable to the same punishment and disabilities to which persons convicted of that offence in other cases are now by law liable.

False swearing to be perjury.

7.—*And be it, &c.*, That the said Justice to whom the determination of the Fence Viewers shall be returned as aforesaid, shall transmit the same to the Clerk of the Division Court having jurisdiction over the said Township, and certify and transmit a copy thereof to the Township Clerk, to be entered in the book in which the Township proceedings are recorded, and thereupon the said Clerk of the said Division Court shall issue an execution against the goods and chattels of the said defendant or defendants, in the same manner as if the party in whose favor the said determination shall have been made, had recovered judgment in the said Court for the sum which the said Fence Viewers shall have determined as aforesaid he was entitled to receive, with such costs as are hereinafter provided and to be allowed: Provided also, that no such Writ of Execution shall be issued until after the expiration of forty days from the time of such determination.

The report shall be transmitted by the Justice to the Clerk of the Division Court.

Execution to issue thereon.

Costs.

Proviso, delay before execution.

8.—*And be it, &c.*, That when any party shall cease to occupy or improve his land, or shall lay the enclosure before under improvement, in common, the said party or parties shall not have a right to take away any part of the Division or Line Fence adjoining to the next enclosure that is improved or occupied, provided the party occupying the lands adjoining the same will allow and pay therefor so much as the Fence Viewers or a majority of them shall in writing determine to be the reasonable value thereof; and whenever any lands which have laid unimproved and in common shall be afterwards enclosed or improved, the occupier or occupiers thereof shall pay for their fair or just proportion of the Division or Line Fence standing upon the divisional line between the same land and the land of the enclosure of any other occupant or proprietor, the value thereof to be ascertained and set forth in writing by three Fence Viewers, in case the parties shall not agree among themselves, and the amount of such value may be recovered according to the proportions so estimated, in the same manner and form as hereinbefore provided respecting the making and keeping in repair Division or Line Fences.

Provision as to fences adjoining lands which, after being improved, are left in common, and when the lands after being unimproved become improved.

In what case only any party may remove his portion of a line fence.

9.—*And be it, &c.,* That in no case shall any person be authorized to take away any part of the Division or Line Fence which to the said party may belong, adjoining to the next enclosure which is improved or occupied, unless the party or parties occupying the lands adjoining the same, refuse, after demand made in writing by the person or persons purposing to remove part of any Line Fence, to pay for the same as aforesaid; nor without first giving due notice to such party for at least twelve months previously to the removal of the same.

Provision as to water fences.

10.—*And be it, &c.,* That when a Water Fence or a Fence running into the water is necessary to be made, the same shall be made in equal parts, unless by the parties otherwise agreed; and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall or may be had, as in other cases of the like kind respecting other Fences in this Act mentioned.

Duty of fence viewers as to lands bounded by brooks, &c.

11.—*And be it, &c.,* That when lands belonging to or occupied by different persons, are subject to be fenced and bounded upon or divided from each other by any brook, pond, or creek, which of itself is not a sufficient fence, in such case, if the parties disagree, the same may be submitted to the three Fence Viewers, as heretofore provided; and if in the opinion of such Fence Viewers, such brook, river, pond, or creek, is not of itself a sufficient barrier, and that it is impracticable to fence at the true boundary line, they shall judge and determine how or on which side thereof the Fence shall be set up and maintained, or whether partly on one side and partly on the other, as to them shall appear just, and reduce their determination to writing as heretofore provided in other cases; and if either of the parties shall refuse or neglect to keep up or maintain the part of the Fence to such party belonging, according to the Fence Viewers' determination in writing as aforesaid, the same may be done and performed as is in this Act before provided in other cases, and the delinquent party shall be subject to the same costs and charges, and to be recovered in like manner.

Penalty for not obeying their award.

Powers and duties of fence viewers with regard to ditches or water courses in which two or more parties shall be interested.

12.—*And whereas it is expedient to provide for the opening of Water Courses in Upper Canada: Be it, &c.,* That in all cases when it shall be the joint interest of parties resident to open a Ditch or Water Course for the purpose of letting off surplus water, from swamps or sunken miry lands in Upper Canada, in order to enable the owners or occupiers of such swampy or sunken lands to cultivate or improve the same, it

shall be the duty of such several parties to open a just and fair proportion of such Ditch or Water Course according to the several interests that such parties may have in the same; and in cases where a dispute shall or may arise as to the part, width, depth or extent that any party so interested ought to open or make, the same may be referred to three Fence Viewers, in the same way and manner as is heretofore by this Act provided in cases of disputes between parties relative to Line or Division Fences; and it shall be the duty of such Fence Viewers to whom such matters shall be referred, to divide or apportion such Ditch or Water Course among the several parties, in such way as in the opinion of such Fence Viewers shall be a just and equitable proportion, having due regard to the interest each of the parties shall have in the opening of such Ditch or Water Course; and the Fence Viewers shall at the same time decide what length of time shall be allowed to each of the said parties to open his share of such Ditch or Water Course; and the determination or award of such Fence Viewers shall be made in the same manner, and have the same effect in regard to Ditches or Water Courses as is provided by this Act in regard to Division or Line Fences.

13.—*And be it, &c.,* That when it shall appear to such Fence Viewers that the owner or occupier of any tract or parcel of land is not sufficiently interested in the opening of such Ditch or Water Course to make him a party, and at the same time that it is necessary that such Ditch should be continued across his land by the other party or parties at his or their own expense, they may award the same in manner and form aforesaid; and upon such award, such party or parties may lawfully open such Ditch or Water Course across such land as aforesaid at his or their own expense, without being deemed to have committed a trespass by so doing.

Provision as to a water course crossing the land of a party not otherwise interested.

14.—*And be it, &c.,* That if any party shall neglect or refuse upon demand made in writing as aforesaid, to open or make and keep open his share or proportion allotted or awarded to him by such Fence Viewers as aforesaid, within the time allowed by such Fence Viewers, either of the other parties may, after first completing his own share or proportion allotted to him in manner aforesaid, open the share or proportion allotted to such party neglecting or refusing to open the same, and such party so opening such other party's share shall be entitled to recover not more than the sum of two shillings per rod from the party so neglecting or refusing to open his share or proportion, in the same manner as is in this Act provided relative to Line and Division Fences.

Provision in case any party shall refuse to make his share of a water course.

Fees for services under this act.

16.—*And be it, &c.,* That the following fees, and no more, shall be received by the different parties acting under the provisions of this Act, that is to say :

To the Justice of the Peace :

For Summons to Fence Viewers, one shilling and three pence.

For Subpœna, which may contain three names, one shilling and three pence.

For transmitting copy of Fence Viewers' determination to Division Court and to Township Clerk, one shilling and three pence.

To the Fence Viewers :

Five shillings per day each : if less than half a day employed, two shillings and six pence.

To the Bailiff or Constable employed :

For serving Summons or Subpœna, one shilling.

Milcage—per mile, four pence.

To Witnesses—per day each, two shillings and six pence.

Fees actually paid to be included in the execution.

17.—*And be it, &c.,* That the fees hereinbefore allowed shall be included in the execution to be issued by the Clerk of the Division Court as aforesaid, upon the party in whose favour the determination of the Fence Viewers shall be made, making an affidavit that the same have been duly paid and disbursed to the said parties respectively, (and which affidavit the said Clerk is hereby empowered to administer), and when recovered shall be paid over by the said Clerk to the said party entitled to recover the same.

Interpretation clause.

18.—*And be it, &c.,* That the words "Upper Canada" wherever they occur in this Act shall mean all that part of this Province which formerly constituted the Province of Upper Canada; that the word "party" in this Act shall include any person or persons, body or bodies politic or corporate; and that all words importing the singular number or the masculine gender only, shall include several persons, matters or things of the same kind as well as one person, matter or thing, and females as well as males, unless there be something in the subject or context inconsistent with such interpretation.

Act of U. C.
1 Wm. IV. c.
13, repealed.

19.—*And be it, &c.,* That the Act of the Legislature of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of*

His late Majesty King George the Third, intituled, "An Act to provide for the nomination and appointment of parish and Town Officers within this Province," as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads, shall be and the said Act is hereby repealed upon, from and after the first day of April next: Provided always, that the repeal of the said Act shall not be construed to revive any Act or part of an Act thereby repealed.

Proviso.

8 VIC.—CAP. 34.

An Act to extend the benefit of a certain Act of Upper Canada therein mentioned, to the Clergymen or Ministers of the "Evangelical Association."

[29th March, 1845.]

WHEREAS, the Ministers and divers Members of the Religious Society or Denomination of Christians called *The Evangelical Association*, have, by their petition to the Legislature, prayed that the privileges and advantages granted to certain other denominations of Christians, by the Act of the Legislature of the late Province of Upper Canada passed in the eleventh year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted, and to provide for the future Solemnization of Matrimony in this Province*, may be extended to the Members of *The Evangelical Association* aforesaid, and it is expedient to grant the prayer of the said Petition: *Be it, &c.*, That all the powers, privileges, and advantages by the Act first above cited, conferred upon or vested in any Clergyman or Minister, of any of the several religious denominations mentioned in the third section of the said Act, shall be and the same are hereby conferred upon and vested in any Clergyman or Minister of the said religious denomination called *The Evangelical Association*, as fully and effectually to all intents and purposes, and upon the same conditions and restrictions, as if *The Evangelical Association* aforesaid had been among the number of the religious denominations mentioned in the said third section, and subject to all the penalties imposed by the said Act for any contravention of the provisions thereof.

Preamble.

Act of U. C.
11 Geo. IV.
c. 36, cite 1.

The privileges granted by the said Act to Ministers of other denominations extended to those of the Evangelical Association.

2.—*Provided always, and be it, &c.*, That this Act shall extend only to that part of this Province which formerly constituted the Province of Upper Canada.

This Act to extend only to U. C.

8 VIC.—CAP. 38.

An Act to regulate the Fees of certain District Officers in that part of this Province called Upper Canada.

[29th March, 1845.]

Preamble.

WHEREAS certain Officers connected with the Administration of Justice in the several *Districts* in that part of this Province which formerly constituted Upper Canada, are required to perform many services for which no fees are fixed by law; and whereas it is proper and necessary to establish reasonable fees and allowances for the same, and to provide for the payment thereof: *Be it, &c.*, That it shall be the duty of the several Justices of the Peace in the different *Districts* of Upper Canada in the General Quarter Sessions of the Peace, to be holden in the month of July next, to frame a Table of Fees for all services now rendered in the administration of Justice, and for other *District* purposes, by any Sheriff, Coroner, Clerk of the Peace, Constable and Crier, which services are not remunerated by any law now in force; and that the several Clerks of the Peace shall forthwith transmit such Table to the Clerk of the Crown in Toronto, to be by him laid before the Judges of the Court of Queen's Bench at Toronto, and that it shall be lawful for the said Judges in term time, by any rule or rules to be by them made from time to time, as occasion shall require, to appoint the fee which shall be taken and received by such Sheriff, Coroner, Clerk of the Peace, Constable or Crier, for such service as aforesaid.

Mode of levying Fees.

2.—*And be it, &c.*, That all per centage, fees or allowances on levying fines and recognizances, shall be levied over and above the amount of such fines and recognizances, and all fees on service for the private benefit of or in the nature of a civil remedy, for individuals at whose instance the same are performed shall be paid by such individuals, and that the Judges shall, in the Table to be by them framed as aforesaid, distinguish the fee to be paid by private individuals, and that, except as is in this Act otherwise provided, all other fees shall be paid out of the District Funds.

By whom costs in prosecutions for assault and battery are to be paid.

3.—*And be it, &c.*, That when any person or persons shall be convicted before any Court of Quarter Sessions of any assault and battery, or other misdemeanor, such person or persons shall pay such costs as shall be allowed and taxed by the Court, but when any Defendant or Defendants shall be acquitted, the costs of the prosecution shall be paid out of the *District funds*: *Provided*, that when any person or persons shall be prosecuted

Proviso:

or tried for felony and convicted or acquitted, or shall be otherwise discharged, the costs of prosecution shall be paid out of the *District* funds: *Provided also*, that nothing herein contained shall be construed to extend to deprive any of the before mentioned Officers of such fees as are allowed by any Act of Parliament now in force in this Province, for other services not herein provided for.

Cases of
Felony.

Proviso, as to
Fees for ser-
vice not
mentioned
therein.

4.—*And be it, &c.*, That if at any time after the passing of this Act, any Officer hereinbefore mentioned shall wilfully and knowingly demand or receive any other or greater fee or allowance than the fee and allowance, fees or allowances established by this Act, for any and all the services performed by them respectively, he shall, for every such offence, forfeit and pay the sum of ten pounds, to any person who shall sue for the same by action of debt, bill, plaint or information, in any Court having competent jurisdiction to hear and determine the same: *Provided*, that nothing herein contained shall prevent any such Officers from demanding and receiving any fee allowed to them respectively by any other Act of Parliament now or hereafter to be in force in this Province, for other services.

Penalty for
any Officer
taking
higher Fees
for the said
services.

Proviso as to
Fees for other
services.

5.—*And be it, &c.*, That the Treasurer of every *District* shall pay the amount for such fees, which are payable out of *District* funds, when duly allowed by the Magistrates in Quarter Sessions assembled, and without further authority, in the order prescribed for the payment of the expenses of the administration of Justice, in and by the fifty-ninth section of the Act of the Parliament of this Province, passed in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to provide for the better internal Government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local and Municipal authorities therein.*

District Treas-
urer's duty.

6.—*And be it, &c.*, That all such Suits and Actions shall be brought before the end of six calendar months after the offence committed, and not otherwise.

Limitation
Suits for
penalties.

8 VIC.—CAP. 44.

An Act to prevent persons riding or driving at a fast rate over Bridges of more than a certain length in Upper Canada.

[29th March, 1845.]

WHEREAS, it is expedient that some Legislative enactment should be made to prevent persons driving at a fast rate over

Preamble.

Penalty on persons riding or driving at a faster pace than a walk over certain bridges.

Mode of levying the penalty.

Commitment of the offender.

Penalties how appropriated.

Notice to be posted at the bridges to which this Act applies.

Penalty on persons defacing such notice.

Bridges of a certain extent in that part of this Province formerly constituting the Province of Upper Canada: *Be it, &c.*, That from and after the passing of this Act, if any person or persons shall drive or ride at a faster rate than a walk over any public Bridge or Bridges, exceeding thirty feet in length, in that part of this Province formerly constituting the Province of Upper Canada, each and every person so offending, upon proof of such offence before any Justice of the Peace for the district in which such Bridge may be situate, either by confession of the party, or by the oath of one or more credible witness or witnesses, and on conviction thereof, shall be liable to a fine of not less than five shillings, nor more than twenty shillings, to be paid forthwith, and in default of payment, to be levied by distress and sale of the goods and chattels of the party so offending, by a Warrant under the hand and seal of the said Justice, and the overplus, after deducting the penalty and the charge of such sale, shall be returned, on demand, to the owner or owners of such goods and chattels; and in case sufficient distress cannot be found, or the offender be not resident in the District, it shall be lawful for such Justice, by warrant under his hand and seal, to cause such offender or offenders to be committed to the Common Gaol of the *District* for a period not exceeding two days, unless such penalties and forfeitures, and all reasonable charges and costs relating to the same, shall be sooner paid and satisfied.

2.—*And be it, &c.*, That all penalties imposed, and moneys collected under and by virtue of this Act, shall be paid by the Justice of the Peace collecting the same, into the hands of the Treasurer of the District in which the same shall be collected, and shall become and form part of the general Funds of the District.

3.—*And be it, &c.*, That it shall be incumbent upon those who have the superintendence and management of each respective Bridge to which this Act applies, to cause to be legibly printed, and put up at each end of such Bridge, a notice in the following form:

“Any person or persons riding or driving on or over this Bridge at a faster rate than a walk, will be subject to a fine, on conviction thereof, as provided by law.”

4.—*And be it, &c.*, That any person or persons obstructing, defacing, destroying, or in any way interfering with such notice shall, upon conviction thereof, be liable to a fine of not less than five shillings, nor more than forty shillings, to be recovered in the same manner as other penalties imposed by this Act.

8 VIC.—CAP. 50.

An Act for better enforcing the provisions of the Act of the Legislature of Upper Canada, for the Regulation of Ferries, and for protecting the rights of the Lessees of Ferries.

[29th March, 1845.]

WHEREAS it is necessary and expedient to afford greater protection than now by law exists to the Lessees of the Crown of Ferries, in that portion of this Province which formerly constituted the Province of Upper Canada, and to provide a more summary mode to punish persons unlawfully interfering with the rights of such Lessees of the Crown: *Be it, &c.*, That if any person, after the passing of this Act, shall unlawfully interfere with the rights of any licensed Ferryman, by taking, carrying, and conveying, at any such Ferry, across the river or stream on which the same may be situate, any person, cattle, carriage, or wares, in any boat, vessel, or other craft, for hire, gain, reward, profit, or hope thereof, or shall do any other act or thing to lessen the tolls and profits of any such Lessee of the Crown at any such Ferry, every offender being convicted thereof before a Justice of the Peace, shall forfeit and pay such sum of money, not exceeding five pounds, as to the Justice shall seem meet, which sum of money shall be paid to the party aggrieved, except where such party shall have been examined in proof of the offence, and in such case the money shall be applied and accounted for in the same manner as any penalty imposed for a breach of the peace: *Provided always*, That nothing herein contained shall extend to prevent any person or persons from keeping any boat, vessel, or other craft, at any such Ferry for his or her or their own private use and benefit, but that the same shall in no wise be used, directly or indirectly, by him or her, or any other person or persons, to evade the payment of tolls at any such Ferry.

Preamble.

Penalty on persons interfering with the rights of the lessees of any ferry.

See 9 Vic. c.9.

Proviso: Nothing to prevent parties keeping boats for their own use.

2.—*And be it, &c.*, That in every case of conviction under this Act, when the sum forfeited shall not be paid immediately after the conviction, it shall be lawful for the convicting Justice to commit the offender to the common gaol of the District, there to be imprisoned for any term not exceeding two calendar months, unless the forfeiture, together with the costs, shall be sooner paid.

Offender to be committed if the penalty be not paid.

3.—*And be it, &c.*, That every license for any such Ferry shall be issued by the Governor, Lieutenant Governor, or person administering the Government of this Province, under the Great Seal thereof, and that any such license shall, on the

Licenses for ferries to be under the Great Seal.

Not to affect
licenses here-
tofore
granted.

trial of any offender against the provisions of this Act, be *prima facie* evidence of title to the Ferry: *Provided always*, That nothing herein contained shall extend or be construed to make void any license heretofore granted, but that the same shall be received in evidence on any such trial, in the same manner as if issued after the passing hereof.

Appeal given
to persons
aggrieved by
any thing
done under
this Act.

4.—*And be it, &c.*, That any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or decision, for the *District* wherein the cause of complaint shall have arisen; and that in the prosecution, hearing, and determination of the matter of the appeal the same proceedings and forms shall be had, taken, and observed, as are required by a certain Act of the Parliament of this Province, passed in the fourth and fifth years of her Majesty's reign, intituled, *An Act for consolidating and amending the Statutes of this Province relative to offences against the person*.

Proceedings
on appeal to
be as under
4 & 5 Vic. c.
27.

Limits of
ferries.

5.—*And be it, &c.*, That in any case where the limits to which the exclusive privilege of any Ferry extends, are not already established, such exclusive privilege shall not hereafter be granted for any greater distance than one mile and a half on each side of the point at which the Ferry is usually kept.

Act to apply
only to Up-
per Canada.

6.—*And be it, &c.*, That this Act shall extend only to that part of this Province which formerly constituted the Province of Upper Canada.

8 VIC.—CAP. 66.

An Act to provide more effectually for the construction of Aprons to Mill-dams or Streams, in the District of Huron.

[29th March, 1845.]

Preamble.

Act of U. C.
9 Geo. IV. c.
4, cited.

WHEREAS divers owners of mill-dams in the *District* of Huron, have not complied with the provisions of the Act of the Legislature of Upper Canada, passed in the ninth year of the reign of his late Majesty, King George the Fourth, and intituled, *An Act to provide for the construction of Aprons to Mill-dams over certain streams in this Province*, and it is expedient to make more effectual provisions for facilitating the passing of rafts, and the ascent of fish on the streams on which dams are erected in the said *District*: *Be it, &c.*, That the owner or occupier of every dam or weir erected on any river or stream in the *District* of Huron, in Upper Canada, who shall not before the passing of this Act have complied with

Owners or
occupiers of
dams or
weirs, not

the requirements of the Act herein first above cited, shall, on or before the first day of June next after the passing of this Act, if the dam or weir was erected before the passing hereof, and at the time of constructing such dam or weir if it be erected after the passing hereof, construct a good and sufficient apron to such dam or weir, at least twenty-eight feet wide (if the dam or weir be of greater width, and if not, then of the same width as the dam or weir), and at least eight feet in length for every foot rise of such dam or weir, under a penalty of five shillings currency, for each day during which the requirements of this Act shall remain uncomplished with; and such penalty shall be recoverable before any two Justices of the Peace for the *District* in which the offence shall be committed, on the oath of one credible witness; and if not paid, may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justices or either of them; and one moiety of such penalty shall belong to her Majesty for the public uses of the Province, and the other moiety to the prosecutor.

having complied with the said Act, to construct aprons of certain dimensions before 1st June 1845.

Penalty.

How to be recovered and applied.

9 VIC.—CAP. 9.

An Act to explain and amend a certain Act therein mentioned and to make further provision concerning Ferries in Upper Canada.

[18th May, 1846.]

WHEREAS it appears that the Act hereinafter mentioned hath been construed so as to prevent parties from conveying persons and goods in their own boats and vessels, and without hire or gain or hope thereof, across waters in Upper Canada within the limits of Ferries, contrary to the true intent and meaning of the said Act: *Be it, &c.*, That nothing in the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the better enforcing the provisions of the Act of the Legislature of Upper Canada for the regulation of Ferries and for protecting the rights of the Lessees of Ferries*, shall be construed to prevent any person or persons whatsoever from using for his or their own accommodation, or for his or their employer's own accommodation, or their or his, or their employer's own boat, vessel or craft, at any Ferry in Upper Canada, to cross the river or stream on which such Ferry may be situate, without hire, gain, reward or profit, or hope thereof.

Preamble.

Act 8 Vict. c. 50, not to prevent parties using their own vessels to cross ferries.

2.—*And be it, &c.*, That no Ferry in Upper Canada shall hereafter be leased, nor shall the lease thereof be renewed, or any license to act as a Ferryman thereat be granted, except by

Ferries to be leased by public competition, and

only for a
limited time.

public competition, and to parties giving such security as may be required by the Governor in Council, and after notice of the time and place at which tenders will be received for the lease or license for such Ferry, inserted at least four times in the course of four weeks in the *Canada Gazette*, and in one or more of the newspapers published in the *District* in which such Ferry shall be situate; nor shall any such Ferry be leased or the license thereof granted for a longer term than seven years at any one time.

9 VIC.—CAP. 17.

An Act to provide for vesting in Trustees the Sites of Schools in that part of this Province called Upper Canada.

[18th May, 1846.]

Preamble.

WHEREAS difficulties have been experienced by persons interested in Schools in that part of this Province called Upper Canada, in securing the titles to real property, for the use of such Schools, for want of a corporate capacity to take and hold the same in perpetual succession; and whereas it is expedient and proper to provide relief in such cases: *Be it, &c.*, That it shall and may be lawful for any number of persons, residing in that part of this Province called Upper Canada, who may be interested in any School established or to be established in any Town or Township therein, whether as parents of children frequenting such Schools, or as contributors to the same, or both, when, and as often as they may have occasion or be desirous to take a conveyance of real property for the use of such Schools, to elect from among themselves, and to appoint any number of Trustees, not exceeding seven nor less than five, to whom and to whose successors, to be appointed in such manner as shall be specified in the Deed of Conveyance, the real property requisite for such School may be conveyed; and such Trustees, and their successors in perpetual succession, by the name expressed in such Deed, shall be capable of taking, holding, and possessing such real property, and of commencing and maintaining any action or actions at law or in equity for the protection thereof, and of their right thereto: *Provided always*, that there shall not be held in trust as aforesaid more than ten acres of land at any one time for any one School: *Provided also*, that nothing in this Act contained shall be construed to extend to Common Schools.

Persons interested in any School in Upper Canada, may name Trustees to take conveyance of Site.

See 18 Vic. c. 121.

Such Trustees to have certain corporate power.

Proviso.

Deed to be registered.

2.—*And be it, &c.*, That such Trustees shall, within twelve calendar months after the execution of such Deed, cause the same to be registered in the Office of the Register of the County in which the land lies.

9 VIC.—CAP. 38.

An Act to empower Commissioners for inquiring into matters connected with the public business, to take evidence on oath.

[9th June, 1846.]

WHEREAS it frequently becomes necessary for the Executive Government to institute inquiries on certain matters connected with the good government of this Province; and whereas the power of procuring evidence under oath in such cases would greatly tend to the public advantage as well as to afford protection to Her Majesty's subjects from false and malicious testimony or representations: *Be it, &c.*, That whenever the Governor, Lieutenant Governor, or person administering the Government of this Province, acting by and with the advice of the Executive Council thereof, shall cause inquiry to be made into and concerning any matter connected with the good government of this Province, or the conduct of any part of the public business thereof, or the administration of justice therein, and such inquiry shall not be regulated by any special Act, it shall be lawful for the Governor, Lieutenant Governor, or person administering the government as aforesaid, by the commission to confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing, (or on solemn affirmation if they be parties entitled to affirm in civil matters,) and to produce such documents and things, as such Commissioners shall deem requisite to the full investigation of the matters into which they are appointed to examine, and the Commissioner shall then have the same power to enforce the attendance of such witnesses and to compel them to give evidence, as is vested in any Court of Law in civil cases; and any wilfully false statement made by any such witness on oath or solemn affirmation, shall be a misdemeanor punishable in the same manner as wilful and corrupt perjury: *Provided always*, that no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

Preamble.

The Governor on appointing Commissioners for inquiring into matters relative to the public business of the Province, may empower them to receive evidence on oath.

Wilfully false statement to be perjury.

Proviso.

2.—*And be it, &c.*, That this Act shall remain in force until the first day of *May*, one thousand eight hundred and forty-eight, and *no longer*.

Continued by 11 Vic. c. 3, 12 Vic. c. 17, 13 & 14 Vic. c. 10,

9 VIC.—CAP. 58.

An Act for defraying the expenses of the Administration of Justice in Criminal matters in that part of the Province formerly Upper Canada.

[9th June, 1846.]

Preamble.

WHEREAS it is expedient to provide that the *expenses of the administration of Criminal Justice in Upper Canada, now paid by local taxation*, shall in time to come be paid out of the public funds of this Province, *under the provisions hereinafter made: Be it, &c.*, That one-third of the expenses of the administration of Criminal Justice in that part of this Province which formerly constituted the Province of Upper Canada, for and during the present year one thousand eight hundred and forty-six, shall be paid out of the Consolidated Revenue Fund of this Province, that two thirds of the expenses of the same for and during the year one thousand eight hundred and forty-seven, shall be paid out of the said Fund, and that, for and during each year thereafter, the whole of the said expenses shall be paid out of the said Fund; and so much of any Act or Laws as may be inconsistent with this Act shall be and is hereby repealed.

One third of the expenses of the administration of Justice in Upper Canada to be paid out of Provincial funds in 1846, two thirds in 1847, and the whole thereafter.

Accounts to be audited in such manner as the Governor in Council shall appoint.

2.—*And be it, &c.*, That all accounts of or relative to the said expenses of the administration of Criminal Justice, shall be examined, audited, vouched, and approved under such regulations as the Governor, or person administering the Government of this Province shall, by and with the advice of Executive Council thereof, from time to time direct and appoint.

What shall be deemed such expenses.

3.—*And be it, &c.*, That the several *heads of expense* mentioned in the Schedule to this Act, shall be *deemed expenses of the administration of Criminal Justice* within the meaning of this Act.

SCHEDULE.

CLERK OF THE PEACE.

Furnishing annually, Lists of Constables to the sheriff, and Coroner,.....
 Making up Lists, pursuant to the Statute 4 and 5 Victoria, chapter 3, section 32, of persons qualified by law to serve as Jurors, residing within the limits of each Division Court, specifying the place of residence and addition of each person, including the certificate and the transmission of the list to the Clerk of each Division Court,.....

Copies of Depositions or Examinations furnished to Prisoners or Defendants, or their Counsel, when proper to be furnished, and required by the party or his Counsel, under the Act 4 and 5 Victoria, chapter 24, sections 12 and 23,.....

If payable by the Crown; and to be paid by the Crown, or by the party applying, according to the nature of the case.

Receiving and filing each Presentment of the Grand Jury,...

If payable by the Crown, and to be paid by the Crown, or by the party, as the case may be.

Arraigning each Prisoner or Defendant indicted, and recording plea,.....

Empanelling and Swearing the Jury in every case, whether Criminal or otherwise, where by law a trial by Jury is to be had at the Quarter Sessions, and where no fee is fixed by Statute,.....

Swearing each Witness for the prosecution, upon any trial by a Jury, or to go before the Grand Jury,.....

Filing each Exhibit upon a trial,.....

Charging the Jury with the Prisoner or Defendant, upon each indictment,.....

Receiving and Recording each verdict of a Jury, in any case of trial by Jury,.....

Recording each Judgment or Sentence of the Court, upon verdict or confession,.....

Making out and delivering to the Sheriff a Calender of the Sentences at each Court,.....

Certified Copy of Sentences sent with the Prisoner to the Penitentiary, after each Session,.....

Making up Record of Conviction or Acquittal, in any case where it may be necessary,.....

If payable by the Crown; and to be paid by the Crown, or by the party, as the case may be.

Discharging any Prisoner by Proclamation,.....

Drawing out and taking each Recognizance to appear, either of Prosecutor, Defendant or Witness,.....

Calling parties on their Recognizances, and recording their non-appearance,

Making out Lists of forfeited Recognizances and Fines, to submit to the Justices after each Quarter Sessions, in order to their being estreated,

Entering any Order of Sessions to remit an estreat, and recording an entry of the same,.....

If payable by the Crown; and to be paid by the Crown, or by the party relieved, as the Justices may order.

- Drawing Order of the Justices to estreat and put in process,...
- Entering and extracting upon a Roll, in duplicate, the Fines, Issues, Amerciaments and forfeited Recognizances, recorded in each Session, making oath to the same, and transmitting it to the Sheriff,.....
- Making out and delivering to the Sheriff the Writ of *fieri facias* and *capias* thereon,.....
- Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Receiver General,.....
- Making up Books of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts,.....
- Making out and transmitting a copy thereof to the Government,
- Making out and transmitting copies (with letter) to the Clerk of each Division Court of the Divisions made by the Quarter Sessions,.....
- Drawing Orders of Sessions for altering the limits of Division Courts,.....
- Making out and transmitting copies of such Orders to the Government,.....
- Making out and transmitting copies of such Orders to each Division Court affected by the alteration,
- For each copy of Schedule of Division Courts, with the Order of Sessions for publication,.....
- Swearing each party to an Affidavit, where no charge is elsewhere provided for it,.....

If payable by the Crown; and to be paid by the Crown, or by the party for whom the Affidavit is sworn, according to the nature of the case.

SHERIFF.

- Notice of appointment to the Associate Justices of Oyer and Terminer,
- Attending the Assizes,.....
- Attending the Quarter Sessions,.....
- Summoning each Grand Jury for the Assizes or Quarter Sessions,.....
- Summoning each Petit Jury for the Assizes or Quarter Sessions,.....

For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the Assizes or Quarter Sessions, or Mayor's Court,.....	
Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted,.....	
Drawing Calender of Prisoners for Trial at the Assizes, including copies,.....	
Drawing Calender of Prisoners for trial at the Quarter Sessions, including copies,.....	
Advertising the holding the Assizes or Quarter Sessions,.....	
Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein,	
Every other Return made to the Government or to the Sessions, required by Statute or by order of the Court,.....	
Returning Precept to the Assizes or Sessions,.....	
Conveying Prisoners to the Penitentiary, or to another District, and disbursements,.....	

If payable by the Crown; and to be paid by the Crown, or by the party, as the case may be.

Arrest of each individual upon a Warrant,.....	
Serving Subpœna for the Crown upon each person,.....	
Conveying Prisoners on Attachment or <i>Habeas Corpus</i> to another District, and disbursements,.....	
Making return upon Attachment or Writ of <i>Habeas Corpus</i> ,	
Levying Fines or Issues on Recognizances estreated, and mileage,	

To be levied according to 8 Vict. chap. 38, sec. 2.

Carrying into execution the Sentence of the Court in capital cases,.....	
Attending and superintending the execution in such cases,...	
Summoning each Constable to attend the Assizes or Sessions,	
Every notice to a Magistrate, under the Statute 8 Victoria, chapter 14, section 6, and mileage.....	
Keeping a Record of Jurors who have served at each Court,	
All disbursements actually and necessarily made in guarding Prisoners, or in their conveyance to the Penitentiary, to any other District or elsewhere, or for other purposes in the discharge of the duties of the Office, (when not provided for by law nor hereinbefore specifically,) to be allowed by the Justices in Sessions,.....	

CORONER.

Precept to summon Jury,	
Empanelling a Jury,	
Summons for Witnesses,	
Information or Examination of each Witness,	
Taking every Recognizance,	
Necessary travel to take an Inquest,	
Taking Inquisition and making Return,	
Every Warrant,	

CONSTABLE.

Arrest of each individual upon a Warrant,	
<i>If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.</i>	
Serving Summons or Subpoena,	
Mileage,	
<i>If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.</i>	
Attending Assizes or Sessions,	
Attending any Justice on the examination of Prisoners charged with any crime,	
<i>If payable by the Crown ; and to be paid by the Crown, or by the party, as the case may be.</i>	
Mileage in going to serve Summons or Warrant when the service has not been effected ; the Justices in Session to be satisfied that due diligence has been used,	
Taking Prisoners to Gaol,—and disbursements necessarily expended in their conveyance,	
Summoning Jury for Inquest,	
Attending Inquest for each day other than the first,	
Serving notice of appointment of Constables, when personally served,	

CRIER.

Making Proclamation for opening or adjourning the Courts of Assize and <i>Nisi Prius</i> , Oyer and Terminer, and General Gaol Delivery and Quarter Sessions,	
Making every other Proclamation,	
Calling and Swearing Grand Jury,	
Calling and Swearing every Petit Jury,	

Calling and Swearing every Witness or Constable,.....
 Attending Assizes and Quarter Sessions

OTHER MATTERS.

The maintenance of Prisoners confined upon Criminal charges,
 A proportion of the Salary of the Gaoler of each *District* Gaol,
 and of the payment of Turnkeys,
 Medicines, Fuel and other similar necessities for the Gaol, and
 the Prisoners confined on Criminal charges,.....
 Disbursements in transporting Prisoners to the Penitentiary,
 and for carrying other Sentences of the Courts into effect,
 Together with all other charges relating to Criminal Justice
 payable to the foregoing Officers specially authorized by an
 Act of the Legislature, and heretofore payable out of Dis-
 trict funds,

10 & 11 VIC.—CAP. 12.

*An Act to amend the Laws relative to the appointment of
 Special Constables, and the better preservation of the Peace.*

[28th July, 1847.]

WHEREAS it is expedient to amend the laws relative to the
 appointment of Special Constables, and to make other provi-
 sions for the better preservation of the public peace in that
 part of this Province formerly Upper Canada: *Be it, &c.*, That
 in all cases where it shall be made to appear to any two or more
 Justices of the Peace of any *District*, City or Town in this
 Province, upon the oath of any credible witness, that any
 tumult, riot or felony has taken place or is continuing, or may
 be reasonably apprehended in any Parish, Township, Town or
 place situate within the limits for which the said respective
 Justices usually act, and such Justices shall be of opinion that
 the ordinary officers appointed for preserving the peace are not
 sufficient for the preservation of the peace and for the pro-
 tection of the inhabitants and the security of the property in
 any such Parish, Township, Town or place as aforesaid, then
 and in every such case such Justices or any two or more Justices
 acting for the same limits are hereby authorized to nominate
 and appoint, by precept in writing under their hands, so many
 as they shall think fit of the householders or other persons
 (not legally exempt from serving the office of Constable) re-
 siding in such Parish, Township, Town or place as aforesaid,
 or in the neighborhood thereof, to act as Special Constables for
 such time and in such manner as to the said Justices respec-
 tively shall seem fit and necessary, for the preservation of the

Preamble.

Any two or more Justices of the Peace empowered to appoint Special Constables in certain cases of apprehension of riot, felony, &c.

Who may be appointed.

Such Justices may administer an oath of office to the persons so appointed.

public peace and for the protection of the inhabitants and the security of the property in such Parish, Township, Town or place; and the Justices of Peace who shall appoint any Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting for the same limit, are and is hereby authorized to administer to any person so appointed the following Oath; that is to say:

Form of the oath.

"I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Special Constable for the — of —, without favour or affection, malice, or ill will; and that I will to the best of my power cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law: So help me God."

Proviso: Notice of such appointment to be sent to the Provincial Secretary.

Provided always, that whenever it shall be deemed necessary to nominate and appoint such Special Constables as aforesaid, notice of such nomination and appointment, and of the circumstances which have rendered such nomination and appointment expedient shall be forthwith transmitted by the Justices making such nomination and appointment, to the Secretary of the Province.

Justices may make regulations touching such Special Constables.

2.—*And be it, &c.*, That the Justices of the Peace who shall have appointed any Special Constables under this Act, or any two of them, or the Justices acting for the limit within which such Special Constables shall have been called out, at a Special Session of such last-mentioned Justices, or the major part of such last-mentioned Justices at such Special Session, shall have power to make such orders and regulations as may from time to time be necessary and expedient for rendering such Special Constables more efficient for the preservation of the public peace, and shall also have power to remove any such Special Constable from his office for any misconduct or neglect of duty therein.

And may remove any of them.

Powers of such Special Constables, and local extent of such powers.

3.—*And be it, &c.*, That every Special Constable appointed under this Act shall, not only within the Parish, Township, Town or place for which he shall have been appointed, but also throughout the entire jurisdiction of the Justices so appointing him, have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to all such duties and responsibilities, as any Constable duly appointed now has by virtue of any law or statute whatsoever.

4.—*And be it, &c.*, That where any Special Constables appointed under this Act shall be serving within any *District*, and two or more Justices of the Peace of any adjoining district shall make it appear to the satisfaction of any two or more Justices of the Peace acting for the limits within which such Special Constables are serving, that any extraordinary circumstances exist which render it expedient that the said Special Constables should act in such adjoining *District*, then and in every such case the said last mentioned Justices are hereby authorised (if they shall think fit) to order all or any of the said Special Constables to act in such adjoining *District*, in such manner as to the said last mentioned Justices shall seem meet; and every such Special Constable, during the time that he shall so act in such adjoining *District*, shall have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to all such duties and responsibilities, as if he were acting within the Parish, Township, Town or place for which he was originally appointed.

Such Special Constables may act in an adjoining *District* in certain cases, and upon a certain order.

See 12 Vic. cap. 78.

Their powers in such adjoining *District*.

5.—*And be it, &c.*, That if any person being appointed a Special Constable as aforesaid, shall refuse to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace so appointing him, or by any two of them, or by any other two Justices of the Peace acting for the same limits, he shall be liable to be convicted thereof forthwith before the said Justices so requiring him, and to forfeit and pay such sum of money not exceeding five pounds as to the said Justices so requiring him shall seem meet; and if any person being appointed a Special Constable as aforesaid shall neglect or refuse to appear at the time and place for which he shall be summoned for the purpose of taking the said oath, he shall be liable to be convicted thereof before the Justices so appointing him or any two of them, or before any other two Justices of the Peace acting for the same limits, and to forfeit and pay such sum of money not exceeding five pounds as to the convicting Justices shall seem meet, unless such person shall prove to the satisfaction of the said Justices that he was prevented by sickness or such other unavoidable accidents as shall in the judgment of the said Justices be a sufficient excuse.

Penalty on persons appointed and refusing to take the oath.

Or to appear at the place appointed for taking such oath.

Sufficient excuse may be allowed.

6.—*And be it, &c.*, That if any person being appointed a Special Constable as aforesaid, and being called upon to serve, shall neglect or refuse to serve as such Special Constable, or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office, every person so offending shall, on conviction thereof before any two Justices

Penalty for refusing to act or to obey orders.

Sufficient
excuse may
be allowed.

of the Peace, forfeit and pay for every such neglect or refusal such sum of money not exceeding five pounds, as to the said Justices shall seem meet, unless such person shall prove to the satisfaction of the said Justices that he was prevented by sickness or such other unavoidable accident as shall in the judgment of the said Justices be a sufficient excuse.

Justice may
suspend or
determine
the services
of Special
Constables.

7.—*And be it, &c.,* That the Justices who shall have appointed any Special Constables under this Act, or the Justices acting for the limits within which such Special Constables shall have been called out, at a Special Session to be held for that purpose, or the major part of such last mentioned Justices at such Special Session, are hereby empowered to suspend or determine the service of all or any of the Special Constables so called out as to the said Justices respectively shall seem meet; and notice of such suspension or determination of the services of all or any of the said Special Constables shall be forthwith transmitted by such respective Justices to the Secretary of the Province.

Notice to be
sent to the
Provincial
Secretary.

Special Con-
stables to
deliver up
their staves,
&c., when
discharged.

8.—*And be it, &c.,* That every such Special Constable shall, within one week after the expiration of his office, or after he shall cease to hold or exercise the same pursuant to this Act, deliver over to his successor (if any such shall have been appointed, or otherwise to such person and at such time and place as may be directed by any Justice of the Peace acting for the limits within which such Special Constable may have been called out) every staff, weapon and other article which shall have been provided for such Special Constable under this Act; and if any such Special Constable shall omit or refuse so to do, he shall on conviction thereof before two Justices of the Peace forfeit and pay for such offence such sum of money not exceeding two pounds as to the convicting Justices shall seem meet.

Penalty for
refusal or
neglect.

Punishment
of persons
assaulting
Special Con-
stables or
encouraging
others to do
so.

9.—*And be it, &c.,* That if any person shall assault or resist any Constable appointed by virtue of this Act while in the execution of his office, or shall promote or encourage any other person so to do, every such person shall, on conviction thereof before two Justices of the Peace, forfeit and pay for such offence any sum not exceeding ten pounds, or shall be liable to such other punishment upon conviction on any indictment or information for such offence, as any persons are by law liable to for assaulting any Constable in the execution of the duties of his office.

Special Con-
stables may
be allowed a

10.—*And be it, &c.,* That the Justices of the Peace acting for the limits within which such Special Constables shall have

been called out to serve, at a Special Session to be held for that purpose, or the major part of the Justices at such Special Session, are hereby empowered to order from time to time such reasonable allowances for their trouble, loss of time and expenses (not however to exceed five shillings per diem) to be paid to such Special Constables who shall so have served or be then serving, as to such Justices or to such major part of them shall seem proper; and the Justices so ordering shall make every order for the payment of such allowances and expenses upon the Treasurer of the *District* or other Municipal division within which such Special Constables shall have been called out to serve, who is hereby required to pay the same out of any moneys in his hands at the time; and the said Treasurer shall be allowed the same in his accounts, and the sum shall be provided for by the Council of the *District* or other Municipality wherein the expense shall arise.

certain sum
per diem for
their services

To be paid by
the Treasurer
of the Municipality.

11.—*And be it, &c.*, That the Justices of the Peace assembled at any Special Session for any of the purposes mentioned in this Act, shall have power to adjourn the same from time to time as they shall think proper; and that every Special Session which shall have been actually holden for any of the purposes mentioned in this Act, shall be deemed and taken to have been legally holden until the contrary be proved.

Special Sessions may be adjourned.

They shall be held legal until the contrary be proved.

10 & 11 VIC.—CAP. 18.

An Act to extend the provisions of the Marriage Act of Upper Canada to Ministers of all denominations of Christians.

[28th July, 1847.]

WHEREAS divers inhabitants of that part of the Province called Upper Canada, of various Religious Denominations of Christians not enumerated in the third Section of an Act passed by the Legislative Council and Assembly of the late Province of Upper Canada, in the eleventh year of the Reign of His late Majesty, King George the Fourth, and assented to by His late Majesty, King William the Fourth, in the first year of His Reign, intituled, *An Act to make valid certain Marriages heretofore contracted, and to provide for the future solemnization of Matrimony in this Province*, have, by their Petitions, prayed that their respective Ministers may be authorized to solemnize Marriages; and it is just and expedient to grant the prayer of such Petitions: *Be it, &c.*, That all the powers, privileges and advantages by the Act first above cited conferred upon or vested in any Clergyman or Minister of any of the several Religious Denominations mentioned in the third

Preamble.

Act of U. C.
11 G. 4, c. 36,
cited.

Powers granted by the said Act to Ministers of certain denominations,

extended to Ministers of all denominations of Christians.

section of the said Act shall be and the same are hereby conferred upon and vested in any Clergyman or Minister of any Religious Denomination of Christians whatever, as fully and effectually to all intents and purposes, and on the same conditions and restrictions, and subject to all the penalties imposed by the said Act for any contravention of the provisions thereof, as if such Religious Denominations of Christians had been among the number of the Religious Denominations mentioned in the said third Section.

On what conditions Ministers shall be entitled to such powers.

Oath of allegiance.

Certificate of appointment to the Ministry.

2.—*And be it, &c.,* That no Clergyman or Minister of any of the several Religious Denominations mentioned in the third Section of the said recited Act, or of those to whom this Act refers, shall be entitled to the benefit of either of the said Acts unless he be a subject of Her Majesty, and shall have taken the oath or affirmation of allegiance before the Registrar of the County in which he shall officiate as such Clergyman or Minister, which oath or affirmation, the said Registrar is hereby authorized and required to administer, and unless he shall also at the time of taking such oath or affirmation as aforesaid, produce to such Registrar evidence of his being a recognized Clergyman or Minister of the Religious Denomination to which he professes to belong, which evidence shall consist of a Certificate from the Bishop, Moderator of Presbytery, Clerk of Conference, Church-wardens, Trustees or Managers, as the case may be, of the body to which such Clergyman or Minister may belong, that he is a recognized Clergyman or Minister of such Denomination, and has been set apart according to the rules and discipline of such Denomination, as a recognized Minister thereof, and the said Registrar is hereby authorized and required to grant to such Clergyman or Minister, a Certificate of his having conformed to the provisions of this Act.

Registrar to keep a record of the taking of such oath of allegiance.

3.—*And be it, &c.,* That the said Registrar shall keep a Registry of such oaths or affirmations of allegiance and certificates, and of certificates by him granted thereupon, in which shall be entered true copies of the same, and for all of which he shall be entitled to the sum of five shillings.

This Act not to affect persons now entitled to celebrate marriage.

4.—*And be it, &c.,* That nothing in this Act shall affect in any way the authority to celebrate Marriage now vested in any person under the provisions of the above recited Act.

It shall hereafter not be requisite for any Minister to appear before the Court of

5.—*And be it, &c.,* That from and after the passing of this Act, it shall no longer be necessary for any Clergyman or Minister of any of the Denominations mentioned in the said recited Act, to give proof of his ordination, constitution or appointment as such Minister, before any Court of Quarter

Sessions according to the requirements of that Act, or to obtain any certificate from such Court, but his compliance with the provisions of this Act shall to all intents and purposes be equivalent to the same.

6.—*Provided always, and be it, &c.,* That this Act shall extend only to that part of this Province which formerly constituted the Province of Upper Canada.

Quarter Sessions, &c.

This Act to extend only to Upper Canada.

10 & 11 VIC.—CAP. 20.

An Act to amend, explain and continue an Act passed in the seventh year of the Reign of Her Majesty, intituled, "An Act to prevent obstructions in Rivers and Rivulets in Upper Canada."

[28th July, 1847.]

WHEREAS doubts have arisen as to the true construction and meaning of an Act passed in the seventh year of the Reign of Her Majesty, intituled, *An Act to prevent obstructions in Rivers and Rivulets in Upper Canada*, and it is necessary that the meaning and intent of the said recited Act should be declared, and that the same should be amended and continued: *Be it, &c.,* That any person who shall throw into any river, rivulet or water-course,—or any owner or occupier of a mill who shall suffer or permit to be thrown, in that part of this Province hitherto known as Upper Canada, any slabs, bark, waste stuff or other refuse of any saw-mill (except saw dust) or any stumps, roots, shrubs, tan-bark or waste-wood, timber, or leached ashes,—or any person or persons who shall fell or caused to be felled, in or across any such river, rivulet, or water-course, any timber or growing or standing tree or trees, and shall allow the same to remain in or across such river, rivulet or water-course, shall thereby incur a penalty not exceeding five pounds and not less than one shilling for each day during which such obstruction shall remain in, over, or across such river, rivulet or water-course, over and above all damages which shall arise therefrom; and that such penalty and damages shall and may be respectively recovered with costs, in a summary way, before any one or more of the Justices of the Peace for the *District*, in the manner provided by the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property*; *Provided always*, that nothing herein contained shall extend or be construed to extend to any dam, weir or bridge erected in or over any such river, rivulet or water-course

Preamble.

7 Vic. c. 36, cited.

Penalty on persons obstructing rivers or rivulets in U. C.

See 14 & 15 Vic. cap. 123.

To be recoverable in the manner provided by 4 & 5 Vic. c. 26.

Proviso: Act not to extend to dams, weirs

or bridges, or trees used as bridges.

Provided such tree does not obstruct the water or the passage of Rafts, &c.

Proviso as to obstructions not wilful.

Act amended to apply to penalties under this Act.

Duration of this Act and of the Act amended.

or to anything done *bona fide* in the erection or for the purpose of the erection of any such dam, weir or bridge, or to any tree cut down or felled across any such river, rivulet or water-course for the purpose of being used as a means of passage from one side of any such river, rivulet or water-course to the other: *Provided always further*, that such tree shall not be suffered to lie across such river, rivulet or water-course in such a manner as to impede the flow of water or the passing of rafts in the same; *Provided also*, that no obstruction happening without the wilful default of, or in the *bona fide* exercise by any party of his rights, shall occasion to the party any fine or forfeiture unless upon default to remove such obstruction after notice and reasonable time afforded for that purpose.

2.—*And be it, &c.*, That all the provisions of the Act hereby amended, shall apply to the penalties and the mode of enforcing payment and the appropriation thereof, and to all the proceedings under this Act.

3.—*And be it, &c.*, That this Act and the Act hereby amended and explained, shall be and continue and remain in force for the full term of *four* years from the passing hereof, and thence until the end of the then next Session of the Provincial Parliament and no longer.

10 & 11 VIC.—CAP. 52.

An Act to divide the Township of Plantaganet in the Ottawa District, into two Townships.

[9th July, 1847.]

Township of Plantaganet divided into two Townships, to be called North and South Plantaganet.

10 & 11 VIC.—CAP. 54.

An Act to declare the mode in which the side lines of the lots in the Township of Osgoode, in the County of Carleton, shall be run.

[28th July, 1847.]

Mode in which the side lines in Osgoode are to be run.

12 VIC.—CAP. 5.

An Act for the better management of the Public Debt, Accounts, Revenue and property.

[25th April, 1849.]

Governor in Council may

12.—*And be it, &c.*, That it shall be lawful for the said Governor in Council to enter into arrangements with any of

the Municipal or *District* Councils, or other Local Corporations or Authorities, or with any Company in Lower or Upper Canada, incorporated for the purpose of constructing or holding such works, or works of like nature in the same section of the Province, for the transfer to them of any of the Public Roads, Harbours, Bridges or Public Buildings, which it may be found more convenient to place under the management of such local Authorities or Companies, and on the completion of such arrangements, to grant (and by so granting, to transfer and convey) for ever, or for any term of years, all or any of such Roads, Harbours, Bridges or Public Buildings, to the *District* or Municipal Council, or other Local Authority or Company with whom such arrangement may have been made (hereinafter called the Grantee,) and upon such terms and conditions as may have been agreed upon, and that all monies payable to the Province under the terms of any such grant, shall be carried to the credit of the Sinking Fund and form part thereof.

arrange for the transfer of certain public works to the local authorities.

13.—*And be it, &c.,* That any such grant, as aforesaid, of any of the said Public Works, may be made by Order of the Governor in Council, published in the Canada Gazette; and by such Order, any or all of the powers and rights vested in the Crown or in the Governor in Council, or in any Officer or Repartment of the Provincial Government, with regard to the Public Work thereby granted, may be granted to and vested in the Grantee to whom the Public Work itself is thereby granted; and such order in Council may contain such conditions, clauses, restrictions and limitations as may be agreed upon as aforesaid, which, as well as all the provisions of such Order in Council, shall, (in so far as they shall not be inconsistent with this Act, and shall not purport to grant any right or power which shall not be immediately before the making of such Order in Council vested in the Crown or in the Governor in Council, or in some Officer or Department of the Provincial Government,) have full force and shall be obeyed, as if they had been contained in this Act, and had been contained in this Act, and had made part of the enactments thereof; and any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council published as aforesaid; and a copy of the Canada Gazette containing any such Order in Council shall be evidence thereof, and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council on which the consent of the Grantee thereto shall be

Transfer to be effected by order in council.

See 13 & 14 Vic. caps. 14 and 15.

What provisions such order in Council may contain.

Revocation or alteration thereof allowed with consent of grantee, &c. Evidence of such order.

Proviso as to penalties for offences relative to public works.

written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement the Deed or Agreement of such Grantee: *Provided always*, That nothing in this Act or in any Order in Council to be made under it, shall be constructed to exempt any person from any punishment or penalty imposed by any Act or Law or under the authority of any Act or Law, for any offence relative to any public Work or Works, but so much of any such penalty as would otherwise belong to the Crown, shall, if it be so provided in the Order in Council, belong to the Grantee under such Order otherwise it shall belong to the Crown, but this shall not prevent the repeal or alteration by the Grantee, of any such penalty imposed by the Governor in Council under the authority of any Act, if the power to repeal or alter the same be transferred in the manner aforesaid, to such Grantee, or by the Governor in Council with the consent of the Grantee, if such power be not so transferred.

12 VIC.—CAP. 8.

An Act to make provision for the preservation of the Public Health in certain emergencies.

[25th April, 1849.]

Preamble.

This Act to be put in force temporarily by proclamation when the province is threatened with any formidable epidemic, &c.

WHEREAS it is expedient to make special provision for the protection of the Public Health in cases when the Province shall be visited by epidemic, endemic or contagious diseases, by enabling the Governor of this Province in Council, to issue orders and adopt measures at any time for that purpose; and whereas it is advisable to intrust the selection of the local agents in the execution of such measures to the Municipal bodies in the various localities which may from time to time be interested therein: *Be it, &c.*, That whenever this Province, or any part thereof, or place therein, shall appear to be threatened with any formidable epidemic, endemic or contagious disease, the Governor of this Province may by Proclamation, to be by him from time to time issued by and with the advice and consent of the Executive Council of this Province, declare this Act to be in force in this Province, or in such part thereof, or place therein as may be mentioned in such Proclamation; and the same shall thereupon become and be in force accordingly: and his Excellency may in like manner from time to time, as to all or any of the parts or places to which any such Proclamation may extend, revoke or renew any such Proclamation; and, subject to revocation and renewal as aforesaid, every such Proclamation shall have effect for six calendar

months, or for such shorter period as in such Proclamation shall be expressed.

2.—*And be it, &c.,* That from and after the issuing of any such Proclamation, and whilst the same shall continue in force, the first, second and sixth sections of the Act of the Legislature of Upper Canada, passed in the fifth year of the reign of his late Majesty King William the Fourth, intituled, *An Act to promote the Public Health, and to guard against infectious diseases in this Province*, and so much of the fourth section thereof as provides for the trial and punishment of any person accused of wilfully disobeying or resisting any lawful Order of any Health Officers duly appointed under the said Act, or of wilfully resisting or obstructing such Health Officers in the execution of their duties, shall be and the same are hereby suspended as to every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby: *Provided always*, That any person accused of having wilfully disobeyed or resisted such Order, or resisted, or obstructed such Officer before the issuing of any such Proclamation, may nevertheless be tried and dealt with as if such Proclamation had not been issued.

Act of U. C. 5 Wm. IV. c. 10, suspended in part as to places affected by such proclamation.

Proviso.

3.—*And be it, &c.,* That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Governor of this Province, to appoint by commission, under his hand and seal, five or more persons, to be and to be called "The Central Board of Health," and to have and execute all the powers and duties vested in or imposed on such Board by this Act, and also, such and so many Officers and Servants as he may deem necessary to assist such Board in the execution of its powers and duties; and his Excellency may from time to time at his pleasure remove all or any of the persons so appointed, and appoint others in their stead; and the powers and duties vested in or imposed on the said Board by this Act, may be exercised and executed by any three members thereof; and during any vacancy in the said Board, the continuing members or member thereof, may act as if no vacancy had occurred; and every such Commission shall *ipso facto* be revoked or determined by the revocation of the Proclamation under which it issued as to all the parts and places mentioned in such Proclamation, or by the expiration of six calendar months from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case such Proclamation be renewed as to all or some of such parts and places.

After issuing such proclamation, the Governor may appoint a "Central Board of Health."

Chief municipal officer of every place affected by such proclamation to take steps for constituting a "Local Board of Health."

Who may be members of Local Boards of Health.

Special meeting for their election to be called within a certain time after written requisition from inhabitant householders.

If no meeting called within the prescribed time—

The Governor may appoint Local Board.

Proviso.

4.—*And be it, &c.*, That from time to time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be lawful for the Mayor, Town Reeve, or other Head of the Municipal Corporation, Inspecting Trustee, or other Chief Municipal Officer, of any and every place mentioned in such Proclamation, or being within any part of this Province designated therein or included thereby, to call a special meeting of the Council or other Municipal Corporation, or of the Police Trustees of such place over which he presides, for the purpose of nominating, and such Municipal Corporation or Police Trustees are hereby authorized and required to nominate accordingly not less than three persons, being residents within the limits of their respective jurisdictions, or, in the case of a City, Town or Village, within seven miles thereof, to be and to be called "The Local Board of Health" for such place; and such Mayor, Town Reeve, or other Head of such Municipal Corporation, Inspecting Trustee, or other Chief Municipal Officer, is hereby expressly required and enjoined to call such special meeting within two days from the receipt of a written requisition to that effect, signed by ten or more inhabitant householders of the place under the jurisdiction of the body over which he presides, on pain of being personally liable to the penalty hereinafter mentioned; and if at any time after the issuing of any such Proclamation, and whilst the same shall continue to have effect, it shall be certified to the Governor of this Province, by any ten or more inhabitant householders of any place mentioned in such Proclamation, or being within any part of this Province designated therein, or included thereby, that the Mayor, Town Reeve, or other Head of such Municipal Corporation, or Inspecting Trustee, or other Chief Municipal Officer of such place, has failed to comply with such requisition as aforesaid, within such time as aforesaid, it shall thereupon become and be lawful for his Excellency in Council, forthwith to appoint not less than three persons resident within the limits of such place, or, in the case of a City, Town or Village, within seven miles thereof, to be and to be called "The Local Board of Health" for such place: *Provided always*, that every nomination or appointment of a Local Board of Health, under this Act, shall *ipso facto* be revoked or determined by the revocation, as to the place within the limits of which such Local Board shall be authorized to act, or as to any part of this Province in which the same shall be included, or the whole of this Province, as the case may be, of the Proclamation under which such Local Board shall have been nominated or appointed, or by the expiration of six

calendar months from the date of such Proclamation, or of such shorter period as may have been expressed in such Proclamation, unless in either case such Proclamation be renewed as to such place, or any part of this Province in which the same shall be included, or the whole of this Province, as the case may be.

5.—*And be it, &c.,* That the Central Board of Health, or any three or more members thereof, may from time to time issue such directions or regulations as they shall think fit, for the prevention, as far as possible, or mitigation of such epidemic, endemic or contagious diseases, and revoke, renew, or alter any such directions or regulations, or substitute such new directions and regulations as to them or any three of them may appear expedient; and the said Board may by such directions and regulations provide for the frequent and effectual cleansing of streets, by the Surveyors or Overseers of highways and others intrusted by law with the care and management thereof, or by the owners or occupiers of houses and tenements adjoining thereto; and for the cleansing, purifying, ventilating and disinfecting of houses, dwellings, churches, buildings and places of assembly by the owners and occupiers, and persons having the care and ordering thereof, for the removal of nuisances, for the speedy interment of the dead, and generally for preventing or mitigating such epidemic, endemic or contagious diseases, in such manner as to the said Central Board may seem expedient; and the said Central Board may by any such directions and regulations, authorize and require the Local Boards of Health to superintend and see to the execution of any such directions and regulations, and (where it shall appear that there may be default or delay in the execution thereof, by want or neglect of such Surveyors or others intrusted as aforesaid, or by reason of poverty of occupiers, or otherwise) to execute or aid in executing the same within their respective limits, and to provide for the dispensing of medicines, and for affording to persons afflicted by or threatened with such epidemic, endemic or contagious diseases, such medical aid as may be required, and to do and provide all such acts, matters and things as may be necessary for superintending or aiding in the execution of such directions and regulations; or for executing the same, as the case may require; and the said Central Board of Health, may also by any such directions and regulations authorize and require the Local Boards of Health, in all cases in which diseases of a malignant and fatal character, shall be discovered to exist in any dwelling-house or out house, temporarily occupied as a

Central Board of Health may issue regulations and directions for the prevention or mitigation of disease.

Tenor of such directions and regulations.

They may extend to authorizing the removal of parties from their dwellings,

under certain circumstances, and placing them in sheds or tents.

To what places these regulations shall extend;

And how long they shall continue in force.

Members of Local Boards of Health to be called Health Officers.

And may enter dwellings in certain cases.

And call for assistance to enforce obedience to their lawful orders, if necessary.

Expenses of Central Board to be

dwelling, situated in an unhealthy or crowded locality, or being in a neglected or filthy state, in the exercise of a sound discretion, and at the proper costs and charges of such Local Boards of Health, to compel the inhabitants of any such dwelling-house or out-house, to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the directions of the Local Boards of Health, for the immediate cleansing, ventilation, purification and disinfection of the said dwelling-house or out-house; and the directions and regulations to be issued as aforesaid, shall extend to all parts or places, in which this Act shall, for the time being, be put in force under such Proclamations as aforesaid, unless such directions and regulations shall be expressly confined to some of such parts or places, and then to such parts or places as in such directions and regulations shall be specified, and (subject to the power of revocation and alteration herein contained) shall continue in force so long as this Act shall be in force under such Proclamation, in the parts or places to which such directions and regulations shall under this provision extend.

6.—*And be it, &c.*, That the Members of the said Local Boards of Health shall be called Health Officers, and that any two or more of them acting in the execution of any such directions or regulations as aforesaid, at reasonable times in the day-time may and they are hereby empowered to enter and inspect any dwelling or premises, if there be ground for believing that any person may have recently died of any such epidemic, endemic, or contagious disease in any such dwelling or premises, or that there is any filth or other matter dangerous to health therein or thereupon, or that necessity may otherwise exist for executing in relation to such dwelling or premises. all or any of such directions and regulations as aforesaid; and in case the owner or occupier of any such dwelling or premises shall neglect or refuse to obey the orders given by such Health Officers, in pursuance of such directions and regulations, it shall be lawful for such Health officers to call to their assistance all Constables and Peace Officers, and such other persons as they may think fit, and to enter into and upon such dwelling, or premises, and to execute or cause to be executed therein or thereupon such directions and regulations, and to remove therefrom and destroy whatsoever in pursuance of such directions and regulations it may be necessary to remove and destroy, for the preservation of the public health.

7.—*And be it, &c.* That the expenses incurred by the said Central Board of Health shall be defrayed out of any monies

which may from time to time be appropriated by the Provincial Parliament for that purpose from the Consolidated Revenue Fund of this Province; and that the expenses incurred by the said Local Boards of Health in the execution or in superintending the execution of the directions and regulations of the Central Board shall be defrayed and provided for in the same manner and by the same means as any expenses incurred by the Municipal Corporations, Councils, or other Municipal Bodies or of having jurisdiction over the respective places for which such Local Boards of Health shall have been nominated or appointed now are at any time hereafter may be by law required to be defrayed and provided for.

defrayed by the province.

Those of Local Boards by the respective localities.

8.—*And be it, &c.*, That no direction or regulation of the said Central Board of Health, shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province in Council, and shall thereafter have been published in the Canada Gazette; and every Proclamation of the Governor of this Province in Council under this Act shall also be published in the Canada Gazette; and such publication of any such Proclamation, direction or regulation shall be conclusive evidence of the Proclamation, direction or regulation so published, and of the sanction and confirmation of such direction or regulation as aforesaid, and of the dates thereof respectively to all intents and purposes; and every such Proclamation, direction and regulation shall forthwith upon the issuing thereof be laid before both Houses of the Provincial Parliament if the said Parliament be then sitting, and if not, then within fourteen days, next after the commencement of the then next Session of the said Parliament.

Regulations of Central Board to be sanctioned by the Governor, and published in the Canada Gazette.

Publication to be evidence of sanction, &c.

Proclamations, &c., under this Act, to be laid before Parliament.

9.—*And be it, &c.*, That upon the issuing and publication of any such directions and regulations as aforesaid, and whilst the same shall continue in force, all by-laws made by the Town Council, Municipal Corporation, or other like Body of any place, to which the same or any of them may relate for preserving the inhabitants thereof from contagious diseases, or for any other of the purposes for which such directions and regulations are by this Act required to be issued, shall become and be suspended; and upon, from and after the nomination or appointment, and during the existence, of a Local Board of Health, under this Act for any such place, any Board of Health or Health Officer, or other like Officer, or any Committee appointed under any such by-law, shall be and remain deprived and relieved of all and every the powers, authorities and duties conferred and imposed upon him or them by any such by-law; but in any interval which may occur between

Local By-laws on the subject of Health to be suspended while such regulations continue in force.

Proviso.

the issuing of such directions and regulations, and the nomination or appointment of such Local Board of Health, he or they may, and shall exercise and perform such powers, authorities and duties in conformity with such directions and regulations, and shall and may act in every respect as if he or they were a Local Board of Health nominated or appointed under this Act.

Penalty on persons obstructing the execution of this Act, or refusing to comply with its requirements or with the regulations of the Central Board of Health.
To be recovered before two Justices.

Who may commit the offender to gaol in certain cases.

Application of penalties.

Proviso.

Certiorari taken away.

10.—*And be it, &c.*, That whosoever shall wilfully obstruct any person acting under the authority or employed in the execution of this Act, or who shall wilfully violate any direction or regulation issued by the Central Board of Health under this Act, or shall neglect or refuse to comply with such directions or regulations, or with the requirements of this Act in any matter whatsoever, shall be liable, for every such offence to a penalty not exceeding five pounds, to be recovered by any person before any two Justices, and to be levied by distress and sale of the goods and chattels of the offender, together with the costs of such distress and sale, by Warrant under the hands and seals of the Justices before whom the same shall be recovered, or any other two Justices; and in case it shall appear to the satisfaction of such Justices, before or after the issuing of such Warrant, either by the confession of the offender or otherwise, that he hath not goods and chattels within their jurisdiction sufficient to satisfy the amount, they may commit him to any Gaol or House of Correction for any time not exceeding fourteen days, unless the amount be sooner paid in the same manner as if a Warrant of Distress had issued, and a return of *nulla bona* had been made thereon; and all penalties whatsoever recovered under this Act shall be paid to the Treasurer, and applied in aid of the rates or funds, of the place in which such penalties may have been incurred respectively: *Provided always* nevertheless, that all offences committed against this Act or any of the provisions therein contained, while the same shall be in force in this Province or in any part thereof, shall and may be prosecuted, and the parties committing the same convicted and punished therefor, as herein provided, as well after as during the time that this Act shall be declared to be in force in or by any such Proclamation or Proclamations as aforesaid.

11.—*And be it, &c.*, That no Order nor any other proceeding, matter or thing, done or transacted in, or relating to the execution of this Act shall be vacated, quashed or set aside for want of form, or be removed or removable by *Certiorari*, or other Writ or Process whatsoever, into any of the Superior Courts in this Province.

12.—*And be it, &c.*, That in this Act the following words and expressions shall have the meanings hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context, that is to say: the words “Governor of this Province,” or “His Excellency” shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being; the words “Governor of this Province in Council,” shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, acting by and with the advice and consent of the Executive Council of this Province; the words “two Justices,” shall mean two or more Justices of the Peace acting for the place where the matter, or any part of the matter as the case may be, requiring the cognizance of such two Justices, arises, assembled or acting together; the word “place,” shall mean a City, Town, Borough, Village, Township, Parish, or any other territorial division recognized or designated by law as a separate Municipality or Municipal division; the word “Street,” shall include every Highway, Road, Square, Row, Lane, Mews, Court, Alley and passage, whether a thoroughfare or not; the word “person,” and words applying to any person or individual, shall apply to and include Corporations, whether aggregate or sole; words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind, than one, and females as well as males, and the converse.

Interpretation of certain words.

12 VIC.—CAP. 10.

An Act for putting a legislative interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes.

[25th April, 1849.]

WHEREAS it is desirable to avoid, by the establishment of some general rules for the interpretation of Acts of the Provincial Parliament, the continual repetition therein of words, phrases and clauses, which are rendered necessary solely by the want of such rules, and also to provide for the date and commencement of such Acts being known with certainty: *Be it, &c.*, That this Act shall be known, cited and referred to as “The Interpretation Act,” and that each provision thereof shall extend and apply to each Act passed in this present Session or in any future Session of the Provincial Parliament,

Preamble.

By what name this Act shall be known, and to what Acts it shall apply.

except in so far as any such provision shall be inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause shall be inconsistent with the context; and except in so far as this Act or any provision thereof shall in any such Act be declared not applicable thereto; nor shall the omission in any Act of a declaration that this Act shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

Date of Royal Assent, &c., to any Act to be endorsed thereon, and to make part thereof, &c.

2.—*And be it, &c.*, That the Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province which shall pass during the present and every future Session thereof, immediately after the title of such Act, the day, month and year when the same shall have been by the Governor of this Province assented to in Her Majesty's name, or reserved for the signification of Her Majesty's pleasure thereon, and in the latter case he shall also endorse thereon the day, month and year when the Governor of this Province shall have signified either by speech or message to the Legislative Council and Assembly of this Province, or by Proclamation, that the same has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such assent or signification, as the case may be, shall be the date of its commencement if no later commencement be therein provided.

Any Act may be amended during the same Session.

3.—*And be it, &c.*, That any Act of the Parliament of this Province passed or to be passed during the present or during any future Session thereof, may be amended, altered or repealed by any Act to be passed in the same Session thereof; any law, usage or custom to the contrary notwithstanding.

Governor and his Successors in office to be a Corporation sole.

4.—*And be it, &c.*, That the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, and His Successors, shall be and He and they are hereby declared to be a Corporation sole; and all bonds, recognizances, and other instruments now by law required to be taken to Him in His public capacity, or which shall or may hereafter be required to be so taken, shall be taken to Him and His Successors, by His name of office, and shall and may be sued for and recovered by Him or His Successors, the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, by His or Their name of office as such; and the same shall

not in any case go to or vest in the personal representatives of such Governor, Lieutenant-Governor, or person administering the Government of this Province during whose government thereof the same shall have been so taken.

5.—*And be it, &c.*, That in every Act of the Parliament of this Province, passed or to be passed as aforesaid :

How certain expressions shall be construed.

1. The words "Her Majesty," "the Queen," or "the Crown," shall mean Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland.

Her Majesty, &c.

2. The words "Governor," "Governor of this Province," "Governor-General," or "Governor in Chief," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being.

Governor, &c.

3. The words "Governor in Council," shall mean the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, acting by and with the advice of the Executive Council thereof.

Governor in Council.

4. The words "Lower Canada," shall mean all that part of this Province which formerly constituted the Province of Lower Canada.

Lower Canada.

5. The words "Upper Canada," shall mean all that part of this Province which formerly constituted the Province of Upper Canada.

Upper Canada.

6. The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland; and the words "the United States," shall mean the United States of America; and generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof.

Names of countries, places, societies or things.

7. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse.

Singular number or masculine gender.

8. The word "person," shall include any body corporate or politic, or party, and the heirs, executors, administrators, or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context shall extend.

Person.

9. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied.

Writing, Written.

- Now—next
—hereafter. 10. The words “now” or “next,” shall be construed as having reference to the time immediately before the commencement of the Session in which the Act shall have been presented for the Royal Assent.
- Month. 11. The word “month” shall mean a calendar month.
- Holiday. 12. The word “holiday” shall include Sundays, New Year’s Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul’s Day, All Saint’s Day, and Christmas Day,—and any day appointed by Proclamation for a General Fast or Thanksgiving.
- Oath. 13. The word “oath” shall be construed as meaning a solemn affirmation whenever the context shall be applied to any person and case by whom and in which a solemn affirmation may be made instead of an oath: and in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made; and the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury, and the wilful making of any false statement in any declaration required or authorized by any such Act as aforesaid, shall be a misdemeanor punishable as wilful and corrupt perjury.
- Power to administer.
False statements to be perjury. 14. The words “Registrar” or “Register” in any such Act, applying to the whole Province, shall mean and include indifferently both Registrars in Lower Canada and Registers in Upper Canada, and their Deputies, respectively.
- Registrar.
Register. 15. Any wilful contravention of any such Act as aforesaid, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly.
- Contravention of Acts. 16. Whenever any wilful contravention of any such Act shall be made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable.
- Contravention to which a legal name is assigned. 17. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid, then if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself, in any form allowed in such case by the law of that part of the Province where it shall be brought, before any Court having jurisdiction to the amount of the penalty in cases of simple contract, upon the evidence of any one credi-
- Recovery and distribution of penalties and forfeitures.

ble witness other than the Plaintiff or party interested ; and if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown.

18. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which shall by any such Act as aforesaid be given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly.

Moneys levied for the Crown to make part of Consolidated Revenue Fund.

19. If any sum of the public money be by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor, then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province, and the due application thereof shall be accounted for to Her Majesty, through the Lords Commissioners of the Treasury for the time being, in such manner and form as Her Majesty shall direct ; and all persons entrusted with the expenditure of any such sum or or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods, and to such Officer, as the Governor shall direct.

Moneys appropriated how payable and accounted for.

[Believed to be obsolete.]

20. The word "Magistrate" shall mean a Justice of the Peace ; the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together ; and if any thing be directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done ; and whenever power is given to any person, Officer or Functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as shall be necessary to enable such person, or Officer or Functionary to do or enforce the doing of such act or thing.

Magistrate, Justices, &c.

21. If in any such Act as aforesaid, any party be directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned, be in or to the common gaol of the locality in which the order for such imprisonment shall be made, or if there be no common gaol there, then in or to that common gaol which shall be nearest to such locality ; and it shall be lawful for the keeper of any such common gaol, to receive such person, and him safely to

Power to do any act.

Imprisonment and detention in gaol.

keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken.

Power of appointing to include power of removing.

22. Words authorizing the appointment of any public Officer or Functionary, or any Deputy, shall be construed to include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested.

Public Officer to include his Successor or Deputy.

23. Words directing or empowering a public Officer or Functionary to do any act or thing or otherwise applying to him by his name of Office, shall include his Successors in such Office, and his or their lawful Deputy.

Words creating a corporation.

24. Words making any association or number of persons a corporation or body politic and corporate, shall be construed to vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purpose for which the Corporation is constituted, and to alienate the same at pleasure; and also to vest in any majority of the members of the Corporation, the power to bind the others by their acts; and also to exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them; but it shall not be lawful for any Corporation to carry on the business of banking unless when such power shall be expressly conferred on them by the Act creating such Corporation.

As to Banking.

25. No provision or enactment in any such Act, as aforesaid, shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it be expressly stated therein that Her Majesty shall be bound thereby; nor the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned, unless such Act be a Public General Act.

Rights of the Crown saved.

26. Every such Act as aforesaid, shall be so construed as to reserve to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification shall be deemed by the Legislature to be required for the public good; and unless it shall be

otherwise expressly provided in any Act already passed or to be passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as may to them appear expedient.

And if it be a Bank Act.

27. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that such Act shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded: and every such Act which shall not, either by its nature or by express provision, be a Public Act, shall be deemed a Private Act, and shall be judicially noticed only when specially pleaded; and all copies of any such Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn.

Public Act

Private Act.

Printed copies of Acts.

28. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act; and every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature may deem to be for the public good or to prevent or punish the doing of any thing which it may deem contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Preamble.

All Acts remedial.

29. Nothing in this Act shall be construed to exclude the application to any such Act as aforesaid, of any Rule of Construction applicable thereto, and not inconsistent with this Act, or to exclude the application of any Rule of Construction in this Act to any Act passed in any Session before the present, if without this Act such Rule would have been applicable thereto.

Application of Rules of Construction inserted or not inserted in this Act.

30. The provisions of this Act shall apply to the construction thereof and of the words and expressions used therein.

Provisions applicable to words, &c., in this Act.

12 VIC.—CAP. 11.

An Act to confirm the erection of certain Townships and for other purposes relative to the erection of Townships.

[25th April, 1849.]

Preamble.

Section 58 of
the Union
Act cited.

Erection of
Townships in
U. C. con-
firmed, al-
though the
provisions of
the said sec-
tion of the
Union Act
may not have
been strictly
complied
with.

WHEREAS by the fifty-eighth section of the Act of the Imperial Parliament, passed in the session held in the third and fourth years of Her Majesty's reign, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, it is enacted, That it shall be lawful "for the Governor, by an instrument or Instruments to be issued by Him for that purpose under the Great Seal of the Province, to constitute Townships in those parts of the Province of Canada in which Townships are not already constituted, and to fix the metes and bounds thereof, and to provide for the election and appointment of Township Officers therein, who shall have and exercise the like powers as are exercised by the like Officers in the Townships already constituted in that part of the Province of Canada now called Upper Canada; and every such Instrument shall be published by Proclamation, and shall have the force of law from a day to be named, in case, in such Proclamation;" And whereas since the time when the said Act came into force, divers Townships have been set apart and erected in that part of this Province which formerly constituted the Province of Upper Canada, in the manner formerly practised in that part of the Province before the Union, but without any Proclamation having been issued for the erection of the same in the manner by the said section provided, and it is expedient to confirm the setting apart and erection of the same: *Be it, &c.*, That all such tracts of land in that part of this Province called Upper Canada, as since the Union of the Provinces, have been set apart, erected and named as Townships, in the manner formerly practised in that part of the Province before the Union, shall, by the several names by which the same are now designated on the original maps thereof, in the office of Her Majesty's Commissioner of Crown Lands, be and be deemed to have been Townships, by the names aforesaid respectively, and with the several metes and boundaries designated on such maps, and by the other records of the said office upon which such maps were framed, as fully and effectually to all intents and purposes whatsoever, as if the same and each of them had been set apart, erected and named by Proclamation under the Great Seal of this Province, as directed by the provisions of the said Act; and to all such Townships, the laws in force in Upper Canada, in the election

and appointment of Township Officers, and for the establishment and regulation of the powers of such Officers, shall apply and shall be deemed to have applied to all intents and purposes, as if the same had been so provided in and by such Proclamation.

2.—And whereas there are now and may be hereafter among the Townships in either section of this Province, divers gores or small tracts of land, which from various causes have not been or may not be included in the original survey and description of any Township, and being of too limited extent to form Townships by themselves: *Be it, &c.*, That it shall be lawful for the Governor of this Province, by Proclamation to annex any such gore or tract of land as aforesaid, in any part of this Province, to any Township to which it may be adjacent or partly to one and partly to another of any two or more Townships to which it may be adjacent, as in his discretion he may deem most expedient; and from and after the day named for the purpose in such Proclamation, or from the date thereof, if no other day be therein named for the purpose, the tract of land thereby annexed to any Township shall form part thereof to all intents and purposes whatsoever.

Small Gores not included in any Township, may be annexed to adjacent Townships by Proclamation.

See Municipal Act.

12 VIC.—CAP. 27.

An Act to repeal certain Acts therein mentioned, and to amend consolidate, and reduce into one Act, the several Statutory provisions now in force for the regulation of Elections of Members to represent the people of this Province in the Legislative Assembly thereof.

[30th May, 1849.]

30.—*And be it, &c.*, That no person shall be entitled to vote at any such Election, for a County or Riding, unless at the time of giving his vote he shall be possessed, for his own use and benefit as proprietor, by virtue of some legal title vesting such property in him, either in fee simple or in freehold under the tenure of free and common soccage, or in *fief*, or in *roture*, or in *franc-alieu*, or by virtue of a certificate, derived under the authority of the Governor and Council of the late Province of Quebec, or by virtue of any Act or Acts of the legislature of either the late Province of Upper or Lower Canada, or of the Legislature of Canada, of Lands or Tenements lying and being in such County or Riding, and being of the clear yearly value of Forty-four shillings and five pence and one farthing currency, (equal, at the time of the passing of the Act of the Imperial Parliament, passed in the thirty-first year of the reign

Qualification of Electors for Counties or Ridings.

See 22 Vic. c. 82.

Imperial Act
31 Geo. III.
c. 31, cited.

During what
time the
qualification
must have
been pos-
sessed.

Exemption.

Proviso.

Qualification
of Electors
in Cities or
Towns—as
proprietors.]

of His Majesty King George the Third, commonly called "The Constitutional Act," and intituled, *An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provisions for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'* to forty shillings sterling or upwards, over and above all annual rents, whether ground rents (*rentes foncières*) or constituted rents (*rentes constituées*) or any other rents and charges payable out of or in respect of the same, nor unless such person be at the time of giving his vote at such Election, and shall have been in actual and uninterrupted possession of such lands or tenements, or in the receipt of the rents and profits thereof as proprietor as aforesaid, by virtue of and under some such title as aforesaid, for his own use and benefit, during at least six calendar months next before the date of the Writ of Election, unless the same shall have come to him by descent or inheritance, or by devise, marriage or contract of marriage, or unless the Deed or Conveyance or Patent from the Crown under which he claims to hold such Estate in Upper Canada, shall have been registered three calendar months before the date of such Writ of Election: *Provided always*, that any Deed or Instrument in writing containing a promise of sale (*promesse de vente*) in favor of any person claiming to vote at any such Election, and being in possession of the property mentioned in such Deed or Instrument in writing, or in favor of any other person or persons through whom he holds, shall, in Lower Canada, be considered for the purposes of this Act as a legal title vesting such property in the person so claiming to vote; *Provided nevertheless*, that every such Deed or Instrument, not being a notarial Deed or Instrument, shall have been enregistered at least twelve months before such Election: *And provided also*, that no person shall be entitled to vote in Upper Canada at any such Election as aforesaid by virtue of any conveyance made to his wife after marriage unless such Conveyance shall have been registered for three calendar months as aforesaid, or such person shall have been in possession of the Lands and Tenements mentioned in such deed for six calendar months next before the date of the Writ of Election.

31.—*And be it, &c.*, That no person shall be entitled to vote as proprietor at any such Election, for any City or Town in this Province, unless at the time of giving his vote at such Election he shall be possessed for his own use and benefit as proprietor, by virtue of some legal title vesting such property

in him, either in Fee Simple or in Freehold under the tenure of free and common soccage, or in *fief*, or in *roture*, or in *franc-alleu*, or by virtue of a certificate derived under the authority of the Governor and Council of the late Province of Quebec, or by virtue of any Act or Acts of the Legislature of either the late Province of Upper or Lower Canada, or of the Legislature of Canada, of a lot of ground with a dwelling house thereon, lying and being within the limits of such City or Town or of the liberties thereof, such lot and dwelling house being of the yearly value of five pounds, eleven shillings, one penny and one farthing currency of this Province, (equal at the time of the passing of the Imperial Act last above cited, to Five Pounds sterling) or upwards, over and above all annual rents, whether ground rents (*rentes foncieres*) or constituted rents (*rentes constituees*) or any other rents and charges payable out of or in respect of the same, nor unless such person be at the time of giving his vote at such Election, and shall have been in actual and uninterrupted possession of such lot and dwelling house, or in the receipt of the rents and profits thereof as proprietor as aforesaid by virtue of and under some such title as aforesaid, for his own use and benefit, during at least six calendar months next before the date of the Writ of Election, unless such lot and dwelling house shall have come to him by descent or inheritance, or devise, marriage or contract of marriage, or unless the deed of conveyance or patent from the Crown, under which he claims to hold such estate in Upper Canada, shall have been registered three calendar months before the date of such Writ of Election; *Provided always*, that any Deed or Instrument in writing, containing a promise of sale (*promesse de vente*) in favour of any person claiming to vote at any such Election, and being in possession of the property mentioned in such Deed or Instrument in writing, or in favour of any other person or persons through whom he holds, shall, in Lower Canada, be considered for the purposes of this Act as a legal title, vesting such property in the person so claiming to vote; *Provided nevertheless*, that every such Deed or Instrument, not being a Notarial Deed or Instrument, shall have been enregistered at least twelve months before such Election; *And provided also*, that no person shall be entitled to vote in Upper Canada at any such Election as aforesaid by virtue of any Conveyance made to his wife after marriage, unless such Conveyance shall have been registered for three calendar months as aforesaid, or such person shall have been in possession of the lands and tenements mentioned in such Deed for six calendar months next before the date of the Writ of Election.

During what time the qualification must have been possessed.

Proviso.

Proviso.

Exception.

Proprietors of dwelling houses not to be disqualified by certain circumstances or agreements respecting the same.]

32.—*Provided always, &c.,* That every such person being otherwise duly qualified in that behalf to vote as proprietor as aforesaid, is and shall be entitled to vote at any such Election upon or in respect of any such lot or dwelling house, whether such dwelling house shall have been erected upon the said lot by himself or those under whom he claims, or by any tenant or tenants holding under building or other leases, or by any other person or persons whomsoever, and whether there shall be or shall not be any subsisting covenant, contract or agreement between landlord and tenant, either in such lease or separate from it, for the removal of any such dwelling house from such lot during or at the end of any term of years for which it may be let, or for any allowance in money or otherwise in lieu of such removal.

Qualification of Electors in Cities and Towns—as Tenants.

33.—*And be it, &c.,* That no person shall be entitled to vote as a Tenant at any such Election for any City or Town in this Province, unless at the time of giving his vote at such Election he shall reside as a Tenant within the limits of such City or Town, or of the liberties thereof, nor unless he shall have so resided as a Tenant during the period of twelve calendar months next before the date of the Writ of Election, nor unless he shall, during the same period, as such Tenant, and as a separate Tenant, have occupied and shall occupy at the time he shall give his vote at such Election, by actual residence therein (*en y tenant feu et lieu*) a dwelling house or dwelling houses, or part or parts of a dwelling house or dwelling houses, lying and being within the limits of such City or Town, or of the liberties thereof, nor unless he shall have really and *bona fide* paid one year's rent for such dwelling house or dwelling houses, or part or parts of a dwelling house or dwelling houses, at the rate of eleven pounds two shillings and two pence half penny currency, (equal, at the time of the passing of the Imperial Act last above cited, to Ten pounds sterling) or upwards, a year: *Provided always*, that the year's rent so required to be paid to entitle such tenant to vote at any such Election, shall be the year's rent up to the last yearly, half yearly, quarterly, or other day of payment (as the case may be) of such rent, which shall have occurred next before the date of the said Writ of Election: *And provided also*, that whenever such annual rent shall exceed the said sum of eleven pounds two shillings and two pence half penny currency, then, in every such case, payment of eleven pounds two shillings and two pence half penny currency shall be deemed and taken to be a payment of rent within the requirements of this section: *And provided also*, that any person

One year's rent must have been paid.

Proviso ; what shall be such year's rent.

Proviso : payment of £11 2s. 2½d. to be sufficient.

Proviso as to

who shall only hold and occupy within the limits of such City or Town, or the liberties thereof, a shop, a counting house, office or other place of business, and who shall not live and have his actual residence therein (*n'y tiendra pas feu et lieu*) shall not be entitled to vote at such election; And *provided also*, that a change of residence in any such City or Town, or the liberties thereof, shall not in any case deprive any such Tenant of his right to vote at any such Election, provided he be in all other respects qualified to vote thereat; and in case of such change of residence being from one Ward to another, he shall vote only at the polling place opened and kept in the Ward within the limits whereof he shall reside on the day when he shall vote at such Election.

occupiers of buildings not being dwelling houses.

Proviso as to change of residence.

34.—*Provided always, &c.*, That every such person being otherwise duly qualified in that behalf to vote as tenant as aforesaid, is and shall be entitled to vote at any such election upon or in respect of any such dwelling house, whether such dwelling house shall have been erected upon the lot of ground on which the same shall stand, by himself or those under whom he claims, or by any other person or persons whomsoever, and whether there shall or shall not be any subsisting covenant, contract or agreement between landlord and tenant, either in the lease under which he shall hold or separate from it, for the removal of any such dwelling house from such lot during or at the end of any terms of years for which the same may be let, or for any allowance in money or otherwise in lieu of such removal.

Tenants not to be disqualified by certain circumstances, or agreements as to their dwelling houses.

35.—*And be it, &c.*, That any person who, being in the Civil or Military Service of her Majesty, or of any Corporation, or Incorporated Society or Company, shall occupy within the limits of such City or Town, or the liberties thereof, any dwelling house or part of a dwelling house, which shall belong to the Crown or to any Department of her Majesty's government, or to such Corporation, Society or Company, or which shall have been provided for such person in any manner whatever by the Crown or any Department of her Majesty's government, or by such Corporation, Society or Company, whether it be or be not reckoned as part of the salary, wages or pay, which such person, by reason of such service, shall be entitled to receive or shall receive from the Crown, or any Department of her Majesty's government, or from such Corporation, Society or Company, shall not be entitled, by reason of his occupying any such dwelling house or part of a dwelling house, to vote at such Election, whatever be the amount of the rent or the value of the occupation (*la valuer du loyer*)

Occupiers of dwellings provided for them by her Majesty, Government Departments, Corporations, &c., not to be thereby disqualified.

Exception.

of such dwelling house or part of a dwelling house so occupied by such person, and whether he do or do not actually live and have his residence therein, (*y tienne ou non feu et lieu*) unless such party shall have contracted to pay, and shall *bona fide* have paid one year's rent for such dwelling house as aforesaid.

As to lands partly within one county and partly within another.

36.—*And be it, &c.*, That whenever at any such Election for a County or Riding, any person shall claim the right of voting as the proprietor of any lands or tenements which lie partly within such County or Riding and partly within another, the part thereof lying within the County or Riding for which the election shall be had, shall be held to be lands or tenements within the meaning of the thirtieth section of this Act, and such person may accordingly vote at such Election, provided he be in all other respects duly qualified so to do within the intent of the said thirtieth section; and when any lands or tenements, although wholly within the same County or Riding, shall nevertheless lie partly within the limits of one of the polling places opened and kept in such County or Riding, and partly within the limits of another of the said polling places, the person who shall be entitled to vote as the proprietor of such lands or tenements may vote at either of the said polling places, at his discretion.

As to lands partly within and partly without any City or Town.

37.—*And be it, &c.*, That whenever at any such Election for any City or Town in this Province, any person shall claim the right of voting under the provisions of the thirty-first section of this Act, as the proprietor of a lot of ground lying partly within and partly without the limits of such City or Town, or the liberties thereof, such person shall not be entitled to vote at such Election upon the said lot of ground, unless the dwelling house erected on such lot shall be wholly upon that part thereof which shall lie within the said limits, nor unless such person be in all other respects duly qualified within the meaning of the said thirty-first section, to vote at such Election.

Joint tenants, or tenants in common, may vote.

39.—*And be it, &c.*, That whenever the right of property in any lands or tenements in any County or Riding, or in any lot of ground having a dwelling house thereon in any City or Town, shall be vested undividedly (*par indivis*), whether as joint tenants or tenants in common, in any two or more persons, each of such persons shall have the right of voting at any such election upon his undivided part or share of such property: *Provided always*, That such part or share be of the yearly value of at least two pounds four shillings and five

Proviso: Each undivided part

pence and one farthing currency, as required by the thirtieth section of this Act, if such lands or tenements be situate in any County or Riding, or of the yearly value of at least five pounds eleven shillings and one penny and one farthing currency, as required by the thirty-first section, if such lands or tenements be situate in any of the Cities or Towns aforesaid, over and above all annual rents, whether ground rents (*rentes foncieres*) or constituted rents (*rentes constituees*), or any other rents and charges payable out of or in respect of such part or share, and not otherwise; but whenever any such lands or tenements shall be vested in any Incorporated Company or Society, no one of the shareholders or partners in such Company or Society shall in any case be entitled to vote upon such property at any such Election.

must be of the proper value.

Shareholders in incorporated companies or societies excepted.

12 VIC.—CAP. 35.

An Act to amend certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province.

[30th May, 1849.]

3.—*And be it, &c.,* That from and after the passing of this Act, no person shall be admitted to practise as a Land Surveyor in and for Upper Canada or Lower Canada, until he shall have attained the full age of twenty-one years, nor unless he shall have gone through a course of Geometry, including at least the first six books of Euclid, and of Plain Trigonometry, Mensuration of Superficies, Plotting and Map Drawing, and be well versed therein, and shall also be sufficiently conversant with Spherical Trigonometry and Astronomy to enable him to ascertain the latitude, and to draw a meridian line, and shall have served regularly and faithfully for and during the space of three successive years, under an instrument in writing duly executed before two witnesses, or in Lower Canada under a Notarial Acts, as Apprentice to a Land Surveyor for Upper Canada or Lower Canada, duly admitted and practising therein as such; nor until he shall have received from the said Land Surveyor a certificate of his having so served during the said period: *Provided nevertheless*, that any person who shall have been admitted to practise as a Land Surveyor in Lower Canada shall not, in order to be admitted to practise in Upper Canada, be holden to serve under an instrument in writing during three years as aforesaid in Upper Canada, but only during six

Qualification of persons applying to be licensed as Surveyors.

Period of service or apprenticeship.

Proviso as to persons already admitted in one part of the Province, and wishing to practise in the other.

Proviso as to persons admitted to practice in other parts of H. M. dominions.

Proviso as to persons apprenticed before the passing of this Act.

Proviso: proof of service required

Proviso as to death of the master, &c.

Proviso as to transfer of indentures.

Candidates for admission as Surveyors to undergo

months of actual practice in the field with a Land Surveyor duly admitted and practising in Upper Canada; after which he may undergo the examination by this Act prescribed, on complying with all the other requirements thereof; and the like rule shall apply to persons admitted to practise in Upper Canada who shall wish to practise in Lower Canada: *Provided also*, that any Land Surveyor duly admitted to practise in any of Her Majesty's dominions other than this Province, shall not be holden to serve under an instrument in writing during three years as aforesaid, but only during twelve successive months of actual practice, after which he may undergo the examination by this act prescribed, on conforming with all the other requirements thereof: *And provided also*, that any person who shall, before the passing of this Act, have been *bona fide* an Apprentice under some agreement in writing, to a Land Surveyor duly admitted and practising in and for Upper Canada or Lower Canada, and shall have served regularly and faithfully as such, shall be entitled to reckon the time he shall have so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as a Land Surveyor, provided such person shall, within three months after the passing of this Act, become regularly articulated by an instrument in writing as aforesaid to some Land Surveyor duly admitted and practising in and for Upper Canada or Lower Canada, and shall afterwards complete the remainder of the said period of three years, according to the requirements of this Act; *And provided also*, that the fact of his having so served before the passing of this Act shall be proved on oath, by himself and by other evidence, to the satisfaction of the Board of Examiners, any one of whom is hereby empowered to put the requisite questions, and to administer the requisite oath or affidavit, which shall be signed by the person making the same, and shall remain with the said Board: *Provided also*, that if any Surveyor shall die or leave the Province, or be suspended or dismissed as hereinafter provided, his Apprentice may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any other surveyor duly admitted: *Provided also*, that it shall be lawful for any Surveyor to transfer, by an instrument in writing as aforesaid, his Apprentice, with his consent, to any other Surveyor duly admitted, with whom he shall serve the remainder of the term of his apprenticeship.

4.—*And be it, &c.*, That before any person shall be admitted to practise as a Land Surveyor in Upper Canada or for Lower Canada, he shall be publicly examined with respect to

his ability, and the sufficiency of his instruments, by a *Board of Examiners* composed of the Commissioner of Crown Lands and six other competent persons to be appointed from time to time by the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, and who shall take an oath of office; and any three of such seven examiners shall form a quorum; and the said examiners, if satisfied of his ability as hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, shall give him a certificate thereof, and of his being admitted as a Land Surveyor, in the form of Schedule A to this Act; and such certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper Canada or in and for Lower Canada, as the case may be: *Provided always*, that it shall be the duty of the said examiners to cause all persons applying for admission to practise as such Land Surveyors, to produce satisfactory certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they shall require, previous to their giving him their Certificate, and to answer such questions on oath, (which oath any one of the Examiners may administer) with regard to the actual practice of such applicant in the field and with regard to his instruments.

an examination before a Board to be appointed for that purpose.

See 14 & 15 Vic. c. 4.

Certificate to be given to qualified candidates.

Proviso: Candidates to produce certificates of character. They may be questioned upon oath.

5.—*And be it, &c.*, That the said Board, or a majority thereof, shall and may appoint from time to time a fit and proper person to be Secretary of the Board, who shall attend the sittings thereof, and keep a record of its proceedings, of which he shall have the custody.

Board may appoint a Secretary: his duties.

6.—*And be it, &c.*, That the said Board shall meet at the Office of the Commissioner of Crown Lands, on the first Monday in each of the months of January, April, July and October, in every year, unless such Monday be a Holy-day, (in which case they shall meet on the day next thereafter not being such holy-day,) and may adjourn such meeting from time to time if they shall deem it necessary.

Meetings of the Board.

Power to adjourn.

7.—*And be it, &c.*, That every person desiring to be examined by the Board as to his qualification to be admitted as a Land Surveyor, shall give due notice thereof in writing to the Secretary of the said Board, at least one week previous to the meeting thereof, and shall then pay to the Secretary five shillings as his fee for receiving and entering such notice; and each applicant obtaining a Certificate, shall pay to the said Secretary ten shillings as his fee upon the Certificate.

Candidates to give notice to the Secretary.

Fee on receiving certificate.

Contribution towards the expenses of the Board.

See 18 Vic. c. 83.

Candidates admitted to give security

And take the oath of allegiance and of office.

The oath of office.

Deposit of oaths.

And of the certificate.

Board may suspend or remove a Surveyor.

proviso: the party accused to be summoned and heard.

Chain-bearers to be sworn.

8.—*And be it, &c.*, That each applicant receiving a Certificate as aforesaid, shall pay to the Secretary a sum of two pounds ten shillings, currency, for the same out of which sum the expenses attending the examination of such applicant (if any) shall first be paid, and the remainder shall be divided equally among such Members of the Board as shall have attended the examination of such applicant, and shall not be salaried officers of the Government.

9.—*And be it, &c.*, That each applicant after receiving the above mentioned Certificate, shall enter into a bond jointly and severally with two sufficient sureties to the satisfaction of the said Board of Examiners, in the sum of two hundred and fifty pounds currency, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners who are hereby empowered to administer the same :

“ I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a Land Surveyor, agreeable to Law, without favour, affection or partiality. So help me God.”

And the said oaths shall be deposited in the Office of the Commissioner of Crown Lands, and the said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof, and the certificate shall be registered in the office of the Registrar of the Province.

10.—*And be it, &c.*, That it shall be lawful for the Board of Examiners to suspend or dismiss any Land Surveyor from the practice of his profession, as they shall in their discretion deem proper whom they shall find guilty of gross negligence or corruption in the execution of the duties of his office : Provided nevertheless, that the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defence, nor without having heard the evidence, which shall have been offered either in support of the complaint or in behalf of the Surveyor or inculpated.

11.—*And be it, &c.*, That each and every chain-bearer, whether in Upper or in Lower Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his

chaining or measuring to the Surveyor by whom he may have been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law, that is to say, within the degree of Cousin German, which oath the Surveyor employing such chain-bearer is hereby authorized and required to administer; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey.

Not to be related to the parties.

12.—*And be it, &c.,* That the Commissioner of Crown Lands shall procure a Standard of English Measure of length, and a Standard of the old French Measure of length, compared with and corrected by the Standards for such Measures established in this Province, which shall remain in his office for the purpose of comparing therewith the Standards to be kept by each Surveyor as hereinafter provided.

Standard measures to be kept by the Commissioner of Crown Lands

13.—*And be it, &c.,* That each and every Land Surveyor duly admitted, and practising, or who shall be hereafter admitted for Upper or Lower Canada, shall procure and shall cause to be examined, corrected and stamped or otherwise certified, by the Commissioner of Crown Lands, or some one by him deputed for that purpose, a Standard Measure of length, under the penalty of the forfeiture of his License or Certificate, and shall, previously to proceeding on any survey, verify the length of his chains and other instruments for measuring by such standard.

Surveyors to have a standard to check their measures by.

14.—*And be it, &c.,* That from and after the passing of this Act, if any person or persons shall, in any part of this Province, interrupt, molest or hinder any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be deemed to have been guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, may be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding five pounds, without any prejudice to any civil remedy which such Surveyor or any other party may have against such offender or offenders, in damages by reason of such offence; and any Land Surveyor, when engaged in the performance of the duties of his profession, shall be, and he is hereby authorized and empowered to pass over, measure along and ascertain the bearings of any Township line, concession or range line or other governing line or side

Punishment of persons molesting Surveyors on duty.

Civil remedy not taken away.

Power to Surveyor to examine certain lines;

doing no actual damage.

line, and for such purposes to pass over the lands of any person whomsoever, doing no actual damage to the property of such person ; any law to the contrary notwithstanding.

Recital.

Stone monuments may be placed at certain points in Townships in Upper Canada.

26.—*And whereas* it is expedient to provide means for ascertaining and permanently defining and marking the angles and boundary lines of Townships or Concessions in Upper Canada : *Be it, &c.*, That stone monuments or monuments of other durable materials, shall be placed at the several corners, governing points or offsets of every Township that hath been surveyed, or may hereafter be surveyed in Upper Canada, and also at each end of the several Concession Lines of such Townships ; and that lines drawn in the manner hereinafter prescribed from the monuments so erected, or to be erected, shall be taken and considered to be the permanent boundary lines of such Townships and Concessions, respectively.

To be placed under the direction of the Commissioner of Crown Lands

27.—*And be it, &c.*, That the monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands of this Province.

Boundaries ascertained as aforesaid in Upper Canada to be deemed the true ones.

28.—*And be it, &c.*, That the courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be and be taken to be the true courses and lengths of the boundary lines of the said Townships and Concessions, in Upper Canada, whether the same do or do not, on actual survey, coincide with the courses and lengths in any Letters Patent of Grant or other Instrument mentioned and expressed in respect of such boundary lines.

Punishment of persons removing or defacing land-marks in Upper Canada or in Lower Canada.

29.—*And be it, &c.*, That if any person or persons shall knowingly and wilfully pull down, deface, alter or remove any such monument so erected as aforesaid, in Upper Canada, such person or persons shall be adjudged guilty of felony ; and if any person or persons shall knowingly and wilfully deface, alter or remove any other landmark, post or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township, Concession, range, lot or parcel of land, in Upper or in Lower Canada, such person or persons shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed Twenty-five pounds, and such imprisonment not to be for a longer period than three months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages, by reason of such offence ; Provided that nothing herein contained shall extend to prevent Land Surveyors. in their operations, from

Proviso as to Surveyors.

taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

30.—*And be it, &c.,* That it shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the twenty-sixth, twenty-seventh, and twenty-eighth Sections of this Act into execution, until an application for that purpose shall have been made to the Governor by the *District Council* of the *District* in Upper Canada, in which the township or townships interested may be situate, who shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants in the same manner as any sum required for any other local purpose authorized by law may be levied.

Monuments not to be placed in Upper Canada except on the application of the Municipal Council.

31.—*And whereas* in several of the Townships in Upper Canada, some of the Concession lines, or part of the Concession lines, have not been run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience: *Be it, &c.,* That it shall be lawful for the *District Council* of the *District* in which any Township in Upper Canada may be situate, on application of one half of the resident land-holders in any Concession, (or without such application if the said Council shall deem it necessary,) to make application to the Governor, requesting him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each Concession or part of a Concession interested; and it shall be lawful for such *District Council* to cause an estimate of the sum requisite to defray the expenses to be incurred to be laid before them, in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession, in the same manner as any sum required for any other purposes authorized by law may be levied; and the lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be taken and considered to be the permanent boundary lines of such Concessions or parts of Concessions to all intents and purposes of law whatsoever; and all expenses incurred in performing any survey or placing any monument or boundary under the provisions of this section or of the next preceding section, shall be paid by the *District Treasurer* to the person or persons

Recital.

In what cases the Municipal Council may apply to have monuments placed in Upper Canada.

Expenses to be estimated and provided for.

Legal effect of the operation.

Expenses to be paid to the Government.

Proviso as to adjacent concessions.

employed in such services, on the certificate and order of the Commissioner of Crown Lands; *Provided always*, that the said lines shall be drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey.

Recital.

Boundaries placed under the authority of the Government to be deemed the true ones &c. U. C.

Townships, &c., to comprise all the space included within their boundaries.

As to aliquot parts of Township, &c.

32.—*And whereas* it is necessary to make more definite provision than is now made by law, as to the mode in which the proper courses of boundary lines shall be ascertained in certain cases in Upper Canada: *Be it, &c.*, That in Upper Canada all boundary lines of Townships, Cities, Towns, Villages, all Concession lines, governing points, and all boundary lines of Concessions, sections, blocks, gores, commons and all side-lines and limits of lots, surveyed, and all posts or monuments, which have been placed or planted at the front angles of any lots or parcels of land, provided the same have been or shall be marked, placed or planted under the authority of the Executive Government of the late Province of Quebec or of Upper Canada, or under the authority of the Executive Government of this Province, shall be and the same are hereby declared to be the true and unalterable boundaries of all and every of such Townships, Cities, Towns, Villages, Concessions, Sections, Blocks, Gores, Commons, and lots or parcels of land, respectively, whether the same shall upon admeasurement be found to contain the exact width, or more or less than the exact width expressed in any Letters, Patent, Grant or other Instrument in respect of such Township, City, Town, Village, Concession, Section, Block, Gore, Common, lot or parcel of land, mentioned and expressed; and such township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed, at the front angles of any such township, city, town, village, concession, section, block, gore, common, lot or parcel of land as aforesaid, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof, notwithstanding; and every patent, grant or instrument, purporting to be for any aliquot part of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument, any law, usage or custom to the contrary thereof in any wise notwithstanding.

33.—*And be it, &c.,* That in every City, Town or Village in Upper Canada, which has been surveyed by the authority aforesaid, all allowances for road or roads, street or streets, lane or lanes, common or commons, which have been laid out in the original survey of such City, Town or Village, shall be and the same are hereby declared to be public highways and commons; and all posts or monuments which have been placed or planted in the original survey of such City, Town or Village, to designate or define any allowance for road or roads, street or streets, lane or lanes, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable boundaries of all such roads, streets, lanes, lots and commons; and all Land Surveyors, when employed to make surveys in such City, Town or Village are hereby required to follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in Townships.

Road allowances in Cities, &c., to be public highways, U. C.

34.—*And whereas* many Townships, tracts or blocks of land in Upper Canada were granted by the Crown to companies and individuals before any surveys were made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof: *Be it, &c.,* That all such surveys of such Townships, tracts or blocks of land in Upper Canada, shall be and the same are hereby declared to be original surveys thereof, and to have the same force and effect as though the said original surveys and plans thereof had been made by the authority aforesaid; and all allowances for roads or commons which have been surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be and the same are hereby declared to be public highways and commons; and all lines which have been run and marked in such original surveys, and all posts or monuments which have been planted or placed in such original surveys, to designate and define any allowances for road, concession or concessions, lot or lots of land, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for road, common or commons, lot or lots of land, and all Land Surveyors, when employed to make surveys in such Townships, tracts or blocks of land, are hereby required to follow and pursue the same rules and regulations in respect of such Townships, tracts or blocks of land, and the original surveys thereof, as is by law required of them to follow and pursue in all Townships, tracts or blocks of land which have been surveyed by the authority aforesaid.

Recital.

As to lands granted in blocks and subsequently surveyed by the grantees, U. C.

Governing
lines, de-
clared, U. C.

Proviso.

Proviso.

Proviso.

Proviso.

Proviso.

35.—*And be it, &c.,* That the course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be and the same is hereby declared to be the course of the division or side lines throughout the several Townships or concessions in Upper Canada, respectively; *Provided always,* that such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; and all Surveyors shall and are hereby required to run all division or side lines, which they may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid; *Provided always,* as aforesaid, that such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; *Provided also,* that when that end of a concession, from which the lots are numbered, is bounded by a lake or river, or other natural boundary, or when it has not been run in the original survey performed under such competent authority as aforesaid, or when the course of the division or side lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such boundary, the said division or side lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey; *Provided further,* that when in the original survey, performed under such competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the said concession from which the lots are numbered, as is stated in the plan and field-notes of the original survey, of record in the office of the Commissioner of Crown Lands of this Province, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey as aforesaid; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if it be bounded at each end by a lake or river or other natural boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field-notes as aforesaid; *Provided nevertheless,* that if any di-

vision or side-line between lots, or proof-line intended to be parallel to the division or side lines between lots, shall have been drawn in any such concession in the original survey thereof, the division or side lines between the lots therein shall be drawn parallel to such division or side line or proof-line; and when two or more such division or side lines or proof lines have been drawn in the original survey of such concession, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered, and shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the next division or side line or proof line drawn in the original survey, which shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey; or to the boundary of the concession towards which the lots are numbered, as the case may be: *Provided further*, that in all those Townships in Upper Canada, which in the original survey have been divided into sections, agreeably to an Order in Council bearing date the twenty-seventh day of March, one thousand eight hundred and twenty-nine, the division or side lines in all concessions in any section shall be governed by the boundary lines of such section, in like manner as the division or side lines in Townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate.

Proviso.

36.—*And be it, &c.*, That the front of each concession in any Township in Upper Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be considered to be, and the same is hereby declared to be that end or boundary of such concession which is nearest to the boundary of the township from which the several concessions thereof are numbered: *Provided always*, that in those Townships in Upper Canada which are bounded in front by a river or lake where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel to the governing line determined as aforesaid to the river or lake in front: *Provided also*, that when the line in front of any such concession has not been run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monu-

What shall be deemed the front of a concession in certain cases, U. C.

Proviso: when the front line of any concession was not run in the original survey.

ments placed or planted on the rear line thereof parallel to the governing line determined as aforesaid to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the Office of the Commissioner of Crown Lands of this Province, having due respect to any allowance for a road or roads made in the original survey; and that a straight line joining the extremities of the division or side lines of any lot in such concession drawn as aforesaid, shall be the true boundary of that end of the lot which has not been run in the original survey.

Fronts of concessions in certain other cases; depths of lots, &c., U.C.

37.—*And be it, &c.,* That in those Townships in Upper Canada in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands shall have been described in half lots, the division or side lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be and the same is hereby declared to be the front of its respective half of such concession, and that a straight line joining the extremities of the division or side lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey.

As to concessions in cases where alternate concession lines only have been run, U. C.

38.—*And be it, &c.,* That in those Townships in Upper Canada in which each alternate concession line only has been run in the original survey, but with double fronts as aforesaid, the division or side lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession, that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands of this Province; and each alternate concession line as aforesaid shall be and the same is hereby declared to be the front of each of the two concessions abutting thereon.

Rule when a line is to be drawn paral-

39.—*And be it, &c.,* That every Land Surveyor, when and as often as he is employed in Upper Canada to run any division

line or side line between lots, or any line required to run parallel to any division line or side line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done but the course cannot at such time be ascertained, determine by astronomical observation, the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division line or side line as aforesaid, truly parallel to such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line, which may not be straight.

Rel to a governing line,
U. C.

40.—*And be it, &c.,* That in all cases when any Land Surveyor shall be employed in Upper Canada to run any side line or limit between lots, and the original post or monument from which such line should commence cannot be found, he shall in every such case, obtain the best evidence that the nature of the case will admit of, respecting such side line, post or limit; but if the same cannot be satisfactorily ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field-notes thereof of record in the Office of the Commissioner of Crown Lands of this Province; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concessions are situate, intended in the original survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be taken to be and are hereby declared to be, the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

Case where the original post or monument cannot be found, provided for.
U. C.

Recital.

As to allow-
ances for
road or
streets in
Towns or
Villages laid
out by pri-
vate parties.
U. C.

41.—*And whereas* many Towns and Villages in Upper Canada have been surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been sold therein according to the surveys and plans thereof: *Be it, &c.*, That all allowances for road, street or streets, common or commons, which have been surveyed in such Towns and Villages in Upper Canada, and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for road, street or streets, common or commons, have been sold to purchasers, shall be and the same are hereby declared to be public highways, streets and commons; and all lines which have been run, and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been placed or planted in the first survey of such Towns and Villages to designate or define any such allowances for road, street or streets, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for such road, street or streets, lot or lots, common or commons, in such Towns and Villages, respectively: *Provided always*, that no lot or lots or land in such Towns and Villages shall be so laid out as to interfere with, obstruct, shut up, or compose any part of any allowance for road, common or commons, which was surveyed and reserved in the original survey of the Township or Townships wherein such Towns or Villages are or may be situate: *Provided also*, that any owner or owners of any such Towns and Villages, or the owner or owners of any original division thereof, shall have lawful right to amend or alter the first survey and plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons, where such alteration is required to be made: *Provided also*, that from and after the passing of this Act, no such private survey shall be valid, unless performed by a duly authorized Surveyor.

Proviso.

Proviso.

Proviso.

Original
owners or
their heirs,
&c., to depo-
sit plans of
Towns or
Villages laid
out by them.
U. C.

42.—*And be it, &c.*, That the original owner or owners of the lands forming the site of any Town or Village in Upper Canada, mentioned in the next preceding Section of this Act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such Town or Village, or any original division thereof, shall, within one year from and after the passing of this Act, make or cause to be made and deposited in the Registry Office of the County wherein such Town or Village is situate, a fair and correct

plan or map of such Town or Village, or original division thereof, on a scale of not less than an inch to every four chains, and lay down thereon, or cause to be laid down thereon, all roads, streets, lots and commons within the same, with the courses and width of the roads, streets and commons, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as shall show the lot or lots, concession or concessions, tract or tracts, block or blocks of land of the Township wherein such Town or Village shall be situate, and every such plan or map of every such Town or Village or original division thereof, shall be certified by some Land Surveyor, and also by the original owner or owners thereof, or the legal representative or representatives of such owner or owners, as being a correct plan or map of the same; and every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar of such County, shall be taken as evidence of the original plan and survey of such Town or Village in all Courts of Record; and if any such owner or owners of any such Town or Village, or any original division thereof, or their agents, heirs, or other legal representatives, shall refuse or neglect to make or cause to be made, any such plan or map of any such Town or Village, or original division thereof, and deposit the same in a Registry Office of the County wherein the same is situate, within one year from and after the passing of this Act, he, she, or they shall forfeit and pay for such refusal or neglect, the sum of two pounds ten shillings, and a like sum for every year thereafter until such plan or map shall be made and deposited in the Registry Office of the County wherein the same is situate; and the payment of any such penalty or penalties shall not be held to free or discharge such owner or owners, their agents, heirs or other legal representatives, from any such penalties which may not have been paid at the time of such payment; and all such penalties, fines and forfeitures may and shall be collected in the same manner and applied to the same purposes as like penalties, fines and forfeitures are required to be collected and applied under and by authority of the sixth and seventh Sections of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to declare certain Lands in Upper Canada liable to Assessment, and to oblige the owners of such Lands to make Returns thereof to the District Treasurer.*

Plan to be
certified.

Penalty for
neglect.

Effect of pay-
ment of any
penalty.

Recovery
and applica-
tion of penal-
ties.

8 Vic. cap. 58.

43.—*And be it, &c., That whenever any such plan or map of any such Town or Village, in Upper Canada, or original di-*

Duty of the
Registrar in
whose office

any such plan shall be deposited.
U. C.

vision thereof, shall be made and deposited in the Registry Office of the County wherein the same shall be situate, it shall be the duty of the Registrar of such County to make a record of the same, and enter the day and year on which the same shall be deposited in his office; and for such service the said Registrar shall be entitled to charge the same fees, and no more, than are by law established for making a record of any other document, which is by by-law required to be entered on record in such office; and such Registrar shall thereupon keep a separate book for the registering of title deeds of lands situate in such Town or Village, in the same manner as is by law required for the registering of title deeds for lands situate in Townships.

As to lands in adjoining concessions included in the same grant. U. C.

44.—And for avoiding all doubt as to the application of the foregoing enactments in the cases hereinafter mentioned: *Be it, &c.*, That in all cases where any Letters Patent of grant, or other Instrument, has issued for several lots or parcels of land in Upper Canada, in concessions adjoining each other, the side-lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line, through several concessions, unless the side-lines or limits, when run as aforesaid, shall intersect the corresponding post or monument in the front of the concession next in rear, that is to say, each such lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument.

Surveyors in Upper Canada to keep regular journals and field notes, and furnish copies to parties interested.

45.—*And be it, &c.*, That each and every Land Surveyor in Upper Canada shall keep exact and regular journals and field-notes of all his surveys, and file them in the order of time in which the said surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he shall be allowed the sum of five shillings currency, for each copy, if the number of words therein do not exceed four hundred words, but if the number of words therein exceed four hundred, he shall be allowed six pence additional for every hundred words therein, over and above four hundred words.

Surveyors in Upper Canada may administer oaths for certain purposes

46.—*And be it, &c.*, That for better ascertaining the original limits of any lot, concession, range, township or tract of land in Upper Canada, every Land Surveyor acting in that portion of this Province, shall be and he is hereby authorized and re-

quired to administer an oath or oaths to each and every person whom he may examine at any time concerning any boundary, post or monument, or any original land mark, line, limit or angle of any township, concession, range, lot or tract of land which such Surveyor may be employed to survey.

47.—*And be it, &c.,* That all evidence to be taken by any Surveyor as aforesaid, in Upper Canada, shall be reduced to writing, and shall be read over to the person giving the same, and signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same with the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any survey by him performed, may be filed and kept in the Reigstry Office of the County in which the lands to which it relates shall be situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper Canada; and for receiving and filing the same, the Registrar shall be entitled to one shilling and three pence currency; and the expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey.

Evidence taken by Surveyors in Upper Canada to be reduced to writing and signed, &c.

48.—*And be it, &c.,* That if any person shall, in any part of this Province, wilfully swear or affirm falsely concerning any matter with regard to which an oath may be required under this Act, such person shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted before any competent Court shall be liable to be punished accordingly.

Wilful false swearing under this Act to be perjury.

49.—*And be it, &c.,* That if any action of ejectment shall be brought against any person or persons, who, after any line or limit shall have been established according to this Act, in Upper Canada, shall be found, in consequence of unskilful survey, to have improved on lands not his, her or their own, it shall and may be lawful for the Judge of Assize, before whom such action shall have been tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she or they may sustain in consequence of any improvement made before the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no Writ of Possession shall issue until such plaintiff or plaintiffs shall have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant should pay or tender to the plaintiff the value of the land so assessed, before the fourth day of the ensuing term.

As to cases in Upper Canada where, from unskilful survey, a party may have improved lands afterwards found to belong to his neighbour.

Plaintiff not to have costs in such cases from the time defendant offers to give up the lands on receiving the value of his improvements, stating the amount.

Unless the Jury shall assess the improvements at less than the sum demanded.

Proviso: that no proof of plaintiff's lessor's title be required.

Interpretation clause.

50.—*And be it, &c.,* That from and after the passing of this Act, in all cases in which the Jury before whom any action of ejectment shall be tried in Upper Canada shall assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own, in consequence of unskilful survey, and when it shall be satisfactorily made to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishing of the lines according to law, it shall and may be lawful for the Judge before whom such action shall be tried to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict rendered for the defendant; provided the defendant shall, at the time of entering into the consent rule, have given notice in writing to the *lessor or lessors* of the plaintiff in such ejectment, or to his Attorney named on the Writ or declaration of the amount claimed for such improvements, on payment of which amount the defendant or person in possession will surrender to such *lessor or lessors*, and that the said defendant does not intend at the trial to contest the title of the *lessor or lessors* of the plaintiff; and if such notice shall on the trial be found not to have been given as aforesaid, or if the jury shall assess for the defendant a less amount than that claimed in the notice, or shall find that the defendant has refused to surrender possession of the land claimed, after tender shall have been made of the amount claimed, then in any of such cases the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; any thing herein contained to the contrary notwithstanding; Provided always, that upon the trial of any such cause no evidence shall be required to be produced in proof of the title of the *lessor or lessors* of the plaintiff.

51.—*And be it, &c.,* That the words "Governor of this Province" or "Governor" wherever they occur in this Act, shall be understood to include the Lieutenant-Governor or person Administering the Government of this Province; and the words "Upper Canada" shall be understood to mean all that part of the Province which formerly constituted the Province of Upper Canada; and the words "Lower Canada" shall be understood to mean all that part of the Province which formerly constituted the Province of Lower Canada; and the words "Commissioner of Crown Lands" shall be un-

derstood to mean the person discharging the duties of that officer; and words importing the singular number only shall be understood to include several persons, matters or things of the same kind, as well as one person, matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to or inconsistent with such construction.

SCHEDULE, A.

FORM OF A CERTIFICATE OF ADMISSION AS A PROVINCIAL LAND SURVEYOR.

This is to certify to all whom it may concern, that A. B., of — in the *District* of — hath duly passed his examination before the Board of Examiners, and hath been found qualified to fill the office, and perform the duties of a Provincial Land Surveyor in and for Upper (or Lower) Canada, he having complied with all the requirements of the Law in that behalf. Wherefore the said A. B. is admitted to the said Office, and is by Law authorized to practise as a Land Surveyor in Upper (or Lower) Canada.

In witness whereof, we have signed this Certificate at — in the *District* of — Province of Canada, the day of — one thousand eight hundred and —

Signature of the President, C. D.

Signature of the Secretary, E. F.

12.—VIC. CAP. 36.

An Act to exempt Firemen, after a certain number of years' service as such, from Militia and other duties.

[30th May, 1849.]

WHEREAS it is expedient to encourage the formation of efficient companies of Firemen by rewarding those members who have served regularly for several years: *Be it, &c.*, That when any member of any Company of Firemen, which is or may be regularly enrolled in any City, Town or place in which the formation of Companies of Firemen is by law authorized and regulated, has regularly and faithfully served for the space and term of seven consecutive years in the same, the said member shall be entitled to receive, upon producing due proof of his having served seven consecutive years as aforesaid, a certificate from the Clerk of the Peace of the *District* in which he resides, or the Clerk of the Corporate Body or Board of Police under whose authority the said Company

Preamble.

Firemen having served seven years, are exempted from serving in certain offices

Proviso.

shall have been established, that he has been regularly enrolled and served as a member of the said Fire Company for the space of seven years; which certificate shall exempt the individual named therein from Militia duty in time of peace, from serving as a constable, and from all Parish and Town offices; any law, custom or usage to the contrary notwithstanding: *Provided always*, that nothing herein contained shall be construed to exempt any such Fireman from serving as a jurymen.

12 VIC.—CAP. 78.

An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties, for Judicial and other purposes, and for the future dissolution of such Unions, as the increase of wealth and population may require.

[30th May, 1849.]

Preamble.

WHEREAS by reason of the subdivision of *Districts* in that part of this Province called Upper Canada, the boundaries thereof have, in many cases, become identical with the boundaries of Counties, and there being no longer any sufficient reason for continuing such territorial division in that part of the Province, it is expedient to abolish the same, and, following in this particular the Mother Country, to retain only the name of County as a territorial division for Judicial as well as all other purposes, providing at the same time for temporary Unions of Counties for Judicial and other purposes, and the future dissolution of such Unions as the increase of wealth and population may from time to time require: *Be it, &c.*, That this Act shall come into and be in operation upon, from and after the first day of January, in the year of our Lord, one thousand eight hundred and fifty.

Commencement of this Act.

1. ABOLITION OF DISTRICT DIVISIONS.

Districts abolished.

2.—*And be it, &c.*, That the division of that part of this Province called Upper Canada into *Districts* for Judicial and other purposes, shall be and the same is hereby abolished.

District Courts, &c., to become County Courts, &c.

3.—*And be it, &c.*, That the Courts, Court Houses, and Gaols, heretofore called *District Courts*, Court Houses and Gaols, shall from henceforth be called County Courts, Court Houses and Gaols, and the *District Grammar Schools*, County Grammar Schools, and all and singular the Offices and Officers now appertaining to the said *Districts* shall henceforth belong and appertain to the said Counties respectively, and whenever

the said Offices or Officers have the title or denomination of Offices or Officers of or for the *District*, they shall henceforth have the title or denomination of Offices or Officers of or for the County; and all laws at present in force, or during the present Session of Parliament made or to be made applicable to the said division of territory by the name of *Districts*, or the Courts, Offices or other Institutions thereof, shall be applied to and have the same operation and effect upon the said Counties and their respective Courts, Offices and other Institutions, as Counties.

Laws applicable to Districts to apply to Counties.

4.—*And be it, &c.*, That the Courts of Assize and Nisi Prius, and Oyer and Terminer, Gaol Delivery, Sessions of the Peace and *District* Courts, shall be held in and for the said Counties, as such Courts are now held for the different *Districts* in Upper Canada, and that the name County shall be used in designating such Courts, and also in all legal proceedings where the name *District* is now, or by any Act passed or to be passed during the present Session of Parliament, shall be used.

Courts of Assize, &c., to be held in and for Counties.

24.—*And whereas*, The Counties mentioned in the Schedule to this Act annexed, marked C., comprehend one area of territory for some purposes, and another and different area for other purposes: *And whereas* such diversities are inconvenient and should be discontinued: *Be it, &c.*, That the several Counties mentioned in the said Schedule marked C., shall, as well for the purposes of Representation, and the Registration of Titles, as for Judicial, Municipal, and all other purposes whatsoever, consist of and include the Townships and places mentioned as lying therein, in the said Schedule C., and such Townships and places as from time to time may hereafter be attached thereto according to Law.

Certain Counties to consist of all Townships within their area for all purposes.

25.—*And be it, &c.*, That for Judicial purposes only, the Townships of Oneida and Seneca shall remain attached to and form part of the County of Wentworth so long as the County of Haldimand shall remain united to the County of Lincoln, and no longer.

Oneida and Seneca attached to Wentworth for certain purposes.

26.—*And be it, &c.*, That for Judicial purposes only, the Townships of Rainham and Walpole shall remain attached to and form part of the County of Norfolk, so long as the County of Haldimand shall remain united to the County of Lincoln, and no longer.

Rainham and Walpole attached to Norfolk for certain purposes.

27.—*And be it, &c.*, That the several Counties in Upper Canada not mentioned in the Schedule to this Act annexed, marked C., shall, as well for the purpose of Representation

How certain Counties are to be formed for all purposes.

and the Registration of Titles, as for Judicial, Municipal, and all other purposes whatsoever, consist of and include the several Townships, Villages, Towns, and places of which, for the purposes of Representation, such Counties are now by Law declared to consist, and such other Townships and Places as from time to time may hereafter be attached thereto according to Law: *Provided always*, nevertheless, that nothing in this Section contained shall interfere, or be construed to interfere, with the union of certain of such Counties for the purpose of Representation in Parliament as hereinafter mentioned.

Proviso.

How Cities are to be formed for purposes of Representation.

28.—*And be it, &c.*, That for the purposes of Representation in the Provincial Parliament, the City of Toronto and the Liberties thereof shall form no part of the County of York; the City of Kingston and the Liberties thereof, no part of the County of Frontenac; and the City of Hamilton and the Liberties thereof, no part of the County of Wentworth; and the Towns of Niagara, Cornwall, Brockville, London and Bytown, no part of the respective Counties of Lincoln, Stormont, Leeds, Middlesex or Carleton, within the bounds of which such Towns are respectively situated.

Toronto, Kingston and Hamilton united to their Counties for Judicial purposes

Exceptions.

29.—*And be it, &c.*, That the Cities of Toronto, Kingston, and Hamilton, with their respective Liberties, shall for all Judicial purposes, except as hereinafter excepted, be united to the following Counties respectively, that is to say: the said City of Toronto and the Liberties thereof to the County of York; the said City of Kingston and the Liberties thereof, to the County of Frontenac; and the said City of Hamilton and the Liberties thereof, to the County of Wentworth; excepting always nevertheless, as respects such Cities and the Liberties thereof, such Judicial Powers and Provisions as are comprehended in the respective Legislative Charters of such Cities respectively, or such powers and provisions as may be so comprehended in any Act or Acts for amending those Charters or any of them, or in any general Act for that purpose applicable to the whole of such Cities in general, or in any other Act or Acts applicable to them or any of them in particular.

IV. MISCELLANEOUS AND TEMPORARY PROVISIONS.

Provision as to the United Counties of Lambton and Kent.

30.—*And be it, &c.*, That the Town Reeves of the different Townships, Unions of Townships, Villages and Towns in the Counties of Kent and Lambton, shall form a Provisional Municipal Council for such Counties as United Counties, and such Provisional Municipal Council shall, with respect to such Counties, have, possess and exercise all and singular the rights,

powers, privileges and duties hereby conferred, granted or imposed upon Provisional Municipal Councils generally, erected by Proclamation under the authority of this Act, and also all such powers as by an Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned*, were conferred upon the Township Councils of the different Townships of the said Counties; and such Provisional Municipal Council shall be charged with and liable to any debt that may have been contracted by competent authority on behalf of the *District* by that Act intended to be erected; and the Municipal Corporation of such United Counties, both Provisional and Permanent, shall and they are hereby required to provide for the payment of every such debt, and in default of their doing so, the same shall and may be sued for, recovered and levied by rate or otherwise, as in the case of debts of any other Municipal Corporation in Upper Canada.

Act 10 & 11
Vic. c. 39.

31.—*And be it, &c.*, That so soon as the Court House and Gaol, now in course of being erected under the authority of the said Act of Parliament last mentioned, shall have been completed, according to the provisions of the said Act, and the other provisions of the fifteenth section of this Act, shall have been complied with by the said United Counties of Kent and Lambton, it shall and may be lawful for the Governor of this Province in Council to issue a Proclamation, dissolving the Union between the said United Counties of Kent and Lambton and the County of Essex, and from thenceforth the said United Counties of Kent and Lambton shall form a Union of Counties, and all the provisions of this Act applicable to Unions of Counties in general shall be applicable to such Union to all intents and purposes, as if such United Counties were set forth as such in the Schedule to this Act annexed marked A.

Further provision in regard to the United Counties of Kent and Lambton.

32.—*And be it, &c.*, That all actions, informations, indictments, inquisitions and other proceedings, of what nature or kind soever, whether of a judicial or any other character, now pending in the several *Districts* in Upper Canada, shall from henceforth be deemed and taken to all intents and purposes whatsoever, to be pending in the Counties or Unions of Counties, to which they are respectively transferred, as respectively set forth in the Schedule to this Act annexed marked B, as if the same had been originally instituted and proceeded with in such Counties or Unions of Counties respectively, and the different Courts, Officers and other authorities in which or before

Provision as to pending actions and other proceedings in the present Districts.

whom the same shall be respectively pending, shall take such order respecting the same as may be necessary or expedient for the proper disposition of the same, according to law, without prejudice to the parties interested or affected, or any of them, from the abolition of such Division into *Districts*, and the establishment of a Division into Counties in lieu thereof, as herein provided.

Recital.

33.—*And whereas* divers of the inhabitants of each of the two Counties of Haldimand and Welland, the Junior Counties of the United Counties of Lincoln, Haldimand and Welland, have petitioned Parliament to be set apart for judicial and other purposes, and the sense of the said two Counties respectively being in favour of such separation, and their wealth and population being sufficient to entitle them to the same, according to the provisions of this Act, for the dissolution of such Unions, it appears expedient that provision should be at once made for enabling such two Counties, or either of them, to procure such separation so soon as they shall have made the necessary preparations for that purpose: *Be it, &c.*, That the Town Reeves of the different Townships, Unions of Townships, Villages and Towns in each of the said two Counties of Haldimand and Welland, shall form a Provisional Municipal Council for each of such Counties respectively; and each of such Provisional Municipal Councils shall, with respect to their respective Counties, have, possess and exercise all and singular the rights, powers, privileges and duties hereby conferred, granted or imposed upon Provisional Municipal Councils generally erected by Proclamation, under the authority of this Act, and each of such Provisional Municipal Councils shall and may, so soon as they shall think fit so to do, proceed to determine the place in such County for the County Town thereof, and to purchase the necessary property thereat, and to erect the necessary public buildings upon such property.

Town Reeves
in each of the
Counties of
Haldimand
and Welland
to be a
Provisional
Council, &c.

Provision
respecting
the Union of
the Counties
of Lincoln,
Haldimand
and Welland.

34.—*And be it, &c.*, That so soon as the Court House and Gaol of either of such two Counties shall have been erected and completed at the County Town of such County, according to the provisions of the fifteenth section of this Act, and the other provisions of the said fifteenth section shall have been complied with by such County, it shall and may be lawful for the Governor of this Province in Council, to issue a Proclamation dissolving the Union between such County and the United Counties of Lincoln, Haldimand and Welland, or, if one of such Counties shall have been then already separated by Proclamation from such Union, then dissolving the Union between such County and the said County of Lincoln, and

from the date of such Proclamation dissolving the Union between either of such Counties and the other two Counties belonging to such Union, the remaining County shall, with the said County of Lincoln, form a Union of Counties until the Union between the other of such Counties and the said County of Lincoln shall in like manner be dissolved, and from the separation of either of such two Counties from the said United Counties of Lincoln, Haldimand and Welland, the said County of Lincoln and the other of such two Counties shall form a Union of Counties under this Act, until the separation of such two last mentioned Counties as herein provided; and all the provisions of this Act applicable to Unions of Counties in general, shall be applicable to such Union, to all intents and purposes, as if the said County of Lincoln and such other County had been set forth as such, in the Schedule to this Act annexed marked A.

35.—*And be it, &c.,* That all the public property, both real and personal, of the several *Districts* in Upper Canada, shall become the property of, and the same is hereby conveyed and transferred to and vested in the Municipal Corporations of the several Counties and Unions of Counties, to which respectively the judicial and other proceedings pending in such *Districts* respectively, are transferred by the thirtieth section of this Act, as set forth in the said Schedule to this Act annexed marked B.

Property of
Districts
transferred
to Counties
and Unions.

36.—*And be it, &c.,* That all Acts and parts of Acts and provisions of Law of what nature or kind soever, in force in that part of this Province called Upper Canada, or any part thereof, immediately before the time this Act shall come into force, which shall be inconsistent with or contradictory to this Act, or any part thereof, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matter, shall, so far as the same shall be inconsistent with the provisions of this Act or any of them, be, and the same is hereby so far repealed to all intents and purposes whatsoever.

Acts, &c.,
inconsistent
with this Act
repealed.

37.—*And be it, &c.,* That Her Majesty's Justices of the Peace, and other persons holding Commissions or Office, or bearing lawful authority, in the different *Districts* in Upper Canada, from which Judicial and other proceedings are by this Act transferred to the several Counties and Unions of Counties in the same, as set forth in the Schedule to this Act annexed marked B., shall continue to hold, enjoy and exercise the like Commission, Office, Authority, Power and Jurisdic-

Who shall be
Justices of
the Peace in
Counties and
Unions.

tion, within the County or Union of Counties respectively, to which such Judicial and other proceedings are hereby respectively transferred as in the said Schedule set forth, respectively to all intents and purposes whatsoever, as if their respective Commissions or other authorities were expressed to be for such County or Union of Counties instead of for such *District* respectively.

Act may be
amended this
Session.

38.—*And be it, &c.,* That this Act may be amended, altered or repealed by any Act to be passed in this present Session of Parliament.

SCHEDULE A.

Counties of Upper Canada united for Judicial and other purposes.

The United Counties of—

1. Essex and Kent.
2. Frontenac, Lennox and Addington.
3. Lanark and Renfrew.
4. Leeds and Grenville.
5. Lincoln, Haldimand and Welland.
6. Northumberland and Durham.
7. Prescott and Russell.
8. Stormont, Dundas and Glengarry.
8. Wentworth and Halton.

SCHEDULE B.

Counties and Unions of Counties in Upper Canada, to which Judicial and other proceedings of the late Districts are transferred respectively under this Act:

To,

- | | |
|---|----------------------------------|
| 1. Carleton | those of the Dalhousie District. |
| 2. Essex and Kent | " Western " |
| 3. Frontenac, Lennox and
Addington | " Midland " |
| 4. Hastings | " Victoria " |
| 5. Huron | " Huron " |
| 6. Lanark and Renfrew | " Bathurst " |
| 7. Leeds and Grenville | " Johnstown " |
| 8. Lincoln, Haldimand and
Welland | " Niagara " |
| 9. Middlesex | " London " |
| 10. Norfolk | " Talbot " |
| 11. Northumberl'd & Durham, | " Newcastle " |

12. Oxford	those of the Brock District.
13. Peterborough	" Colborne "
14. Prescott and Russell	" Ottawa "
15. Prince Edward	" P. Edward "
16. Simcoe	" Simcoe "
17. Stormont, Dundas & Glen- garry	" Eastern "
18. Waterloo	" Wellington "
19. Wentworth and Halton	" Gore "
20. York	" Home "

SCHEDULE C.

Counties in Upper Canada which henceforth shall, for all purposes, include and consist of the Townships and places therein mentioned.

1. Haldimand, which shall include and consist of the Townships of Canboro, Cayuga, Dunn, Moulton, Oneida, Rainham, Seneca, Sherbrooke and Walpole.

2. Halton, which shall include and consist of the Townships of Beverley, Dumfries, Esquesing, East Flamborough, West Flamborough, Nassagaweya, Nelson and Trafalgar.

3. Norfolk, which shall include and consist of the Townships of Charlotteville, Houghton, Middleton, Townsend, Woodhouse, Windham, Walsingham and Long Pointe, and Ryerson's Island in Lake Erie.

4. Waterloo, which shall include and consist of the Townships of Arthur, Amaranth, Bentinck, Derby, Eramosa, Egremont, Erin, Guelph, Glenelg, Garafraxa, Holland, Luther, Mornington, Minto, Maryborough, Melancton, Normanby, Nichol, Peel, Proton, Puslinch, Sydenham, Sullivan, Waterloo, Wilmot, Woolwich and Wellesley.

5. Wentworth, which shall include and consist of the Townships of Ancaster, Brantford, Binbrooke, Barton, Glandford, Onondaga, Saltfleet and Tuscarora.

12 VIC.—CAP. 80.

An Act to repeal the Acts in force in Upper Canada, relative to the Establishment of Local and Municipal Authorities, and other matters of a like nature.

[30th May, 1849.]

An immense number of Acts, unnecessary to be here referred to, repealed.

12 VIC.—CAP. 81.

An Act to provide, by one general law, for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages, in Upper Canada.

[30th May, 1849.]

As to Towns mentioned in first division of Schedule D incorporated.

203.—*And be it, &c.,* That the inhabitants of each of the Towns mentioned in the first division of the said Schedule marked D, shall be a body corporate apart from the Township or Townships in which such Town shall be situate, and as such shall have perpetual succession and a common seal, with all such powers within the limits of such Town as are by this Act conferred upon the inhabitants of Incorporated Villages, and the powers of the Corporation of such Town shall be exercised by, through, and in the name of the Municipality of such Town, and all the provisions of this Act, and of all other Acts hereafter to be passed applicable to Incorporated Villages, and the Municipalities thereof, shall apply to such Town and the Municipality thereof.

SCHEDULE B.

2. *Brantford.*—To consist of all that part of this Province situate within the county of Wentworth and lying within the following limits, that is to say :

Commencing on the north side of Colborne Street, in the eastern limit of the said town as originally laid out by the authority of the government of the late Province of Upper Canada; then, north, eighteen degrees thirty minutes east, seventy-nine chains forty-five links, more or less, to the north-east angle of the said town, as laid out by the government as aforesaid; then, south, eighty-four degrees thirty minutes west, eighty-two chains twenty-eight links, more or less, to the north-west angle of the said town, as laid out by the government as aforesaid, and to the eastern limit of a certain tract of twelve hundred acres of land originally granted by the Crown to Abraham Kennedy Smith and Margaret Kerby; then, south, twenty-seven degrees thirty minutes west, eight chains, more or less, to the south-east angle of a parcel of land belonging to Peter O'Banyon; then, north, sixty-two degrees thirty minutes west, sixty chains, more or less, to the western limit of the said lands granted by the Crown to the said Abraham Kennedy Smith and Margaret Kerby; then, south, twenty-seven degrees thirty minutes west, one hundred and eight

chains, more or less, along the western limit of the said lands to the Grand River; then, across the Grand River obliquely with the stream in an easterly direction, and passing south of the large island, about thirty chains, to the limit between the farm lands of Thomas Mair and the north part of the Brant Farm, granted by the Crown to William Johnson Kerr: then, south, twenty-seven degrees twenty-five minutes west, forty-two chains, more or less, to the rear of the lots on the south side of Burford Street, on the plank road; then, south, sixty-eight degrees east, thirty-nine chains, more or less, to the east side of the Mount Pleasant road and south side of Walnut Street on the lands of Daniel Mercer Gilkison; then, north, forty-three degrees thirty minutes east, thirty-six chains, more or less, along the south side of Walnut Street to the Grand River; then easterly, along the south side of the Grand River with the stream about thirty chains to opposite the mouth of the Cove; then, east, across the Grand River to the south side of the mouth of the said Cove; then, north-easterly along the easterly side of the said Cove about twenty chains to the southern limit of the lands of the Grand River Navigation Company; then, easterly, along the south boundary of the said Grand River Navigation Company's lands, about fifty-five chains, to the western limit of the Mohawk Parsonage Glebe; then, north, five degrees thirty minutes west, forty-five chains, more or less, to the place of beginning.

The said Town to be divided into five Wards, to be called respectively, King's Ward, Queen's Ward, Brant Ward, East Ward, and North Ward—and to comprise the following portions of the said Town respectively, that is to say:

The said King's Ward to comprise all that part of the said Town which lies between Cedar Street and King Street, and north of the Canal, together with all that part of the said Town lying south of the Grand River.

The said Queen's Ward to comprise all that part of the said Town which lies north of the Canal, and between King Street and Market Street to their intersection with West Street.

The said Brant Ward to comprise all that part of the said Town which lies north of the Grand River, and south of the Canal as far eastward as Alfred street, and north of the Canal, and between Market and Alfred Streets.

The said East Ward to comprise all that part of the said Town which lies east of Alfred Street.

And the said North Ward to comprise all that part of the said Town which lies north of the Grand River (including the two large islands in the river) and west of Cedar Street, and West Street from its intersection with Cedar Street.

3. *Brockville*.—To consist of all that part of this Province situate within the county of Leeds, and lying within the following limits, that is to say:

Comprising that part of the Township of Elizabethtown known as the front halves of township lots numbers ten, eleven, twelve and thirteen, and of the west half of township lot number nine, and of the east half of township lot number fourteen, in the first concession of the said township, extending the same respectively to the water's edge of the River St. Lawrence, together with such parts of the water of the said River, and of the land under the said water, as lies in front of the said lots within three hundred yards of the said water's edge, and also including the small island in front of the said Town on which a block house is now built, and all public roads and highways running through or by any of the said half lots within the exterior limits thereof.

The said Town to be divided into three Wards, to be called respectively, East Ward, West Ward, and Centre Ward, and to comprise the following portions of the said Town respectively, that is to say:

The said Centre Ward to comprise all that part of the said Town known as the front half of the west half of the said township lot number eleven, and of the front half of the east half of the said township lot number twelve, in the first concession of Elizabethtown, aforesaid, extending the same respectively to the water's edge of the said River St. Lawrence, together with such parts of the water of the said river and of the land under the said water as lies in front of the said last mentioned half lots, and within three hundred yards of the said water's edge, and including the said small island.

The said West Ward to comprise all that part of the said Town which lies to the west of the said Centre Ward.

And the said East Ward to comprise all that part of the said Town which lies east of the said Centre Ward.

4. *Bytown*.—To consist of all that part of this Province situate within the county of Carleton, and lying within the following limits, that is to say:

Commencing at the water's edge of the river Rideau on the line which divides lots E and F in concessions D and C, and thence, in a continuous direct line, across lot number forty, to the side-line dividing lots numbers thirty-nine and forty; thence, following the said line northerly in the first concession to the line dividing concession A and the first concession, and in concession A embracing the whole of the broken lot number thirty-nine to the river Ottawa, including all the islands

down to the southerly end of the chain bridge; thence, following the waters of the Ottawa in the centre of the channel to the western branch of the waters of the river Rideau; thence against the stream up the river Rideau to the place of beginning.

The said Town to be divided into three Wards to be called respectively East Ward, Centre Ward, and West Ward, and to comprise the following portions of the said Town, respectively, that is to say:

Lower Bytown shall comprise that portion of the said Town which lies easterly from the Rideau Canal, and shall constitute two Wards by the name of East Ward and Centre Ward.

The said East Ward to comprise all that portion of the said Lower Town which lies east of the centre of Dalhousie Street, so far as the said street is now opened, and thence in a direct line produced from the centre of the said street until it intersects the limits of the town on the south.

The said Centre Ward to comprise all that portion of the said Lower Town not included in the East Ward.

The said West Ward shall comprise all that portion of the said town which lies westerly from the Rideau Canal, and which shall constitute Upper Bytown.

6. *Cornwall*.—To consist of all that part of this Province situate within the county of Stormont, and lying within the following limits, that is to say:

Comprised within the limits or boundaries heretofore reserved and set apart by Government as a Town plot, together with the parcel or tract of ungranted land in front thereof, and the harbour.

The said Town to be divided into three Wards, to be called respectively East Ward, West Ward, and Centre Ward, and to comprise the following portions of the said Town respectively, that is to say:

The said East Ward to comprise all that part of the said Town which lies between Amelia Street and the eastern limits of the said town.

The said West Ward to comprise all that part of the said town which lies between Augustus Street and the western boundary of the said town; and

The said Centre Ward to comprise all that remaining part of the said town which lies between Amelia Street and Augustus Street, and not included in either of the before mentioned Wards.

7. *Dundas*.—To consist of all that part of this Province situate within the county of Halton, and lying within the following limits, that is to say:

Commencing on the division line between the property of George Rolph, Esquire, and the property of the late Harker Lyons, on the York road; thence, following the said road, westerly, to the road leading up the mountain to John Keagy's, the younger; thence in a straight line by compass to a monument, within a few feet of the site of the old oatmeal mill; thence across the creek or stream to a stone monument placed at the distance of five hundred feet from the west bank thereof; thence, following the said creek or stream at a distance throughout of five hundred feet from the west and south bank thereof, to where a stone monument is placed south of Mr. Ewart's mill-dam; thence, running in a straight line to a stone monument placed on the boundary line between the property owned by John O. Hatt, Esquire, and the estate of the late Manuel Overfield; thence, to a stone monument placed on the boundary line between the property owned by Thomas Hatt and the said John O. Hatt; thence, along the said boundary line to a stone monument placed in South Street; thence, following South Street till it intersects East Street; thence, descending the hill in a northerly direction till it intersects the Governor's road; thence, following the said road, easterly, to a stone monument placed in a line at right angles with the place of beginning; thence, along the said line to the place of beginning.

The said Town to be divided into four Wards, to be called respectively, Mountain Ward, Canal Ward, Foundry Ward, and Valley Ward, and to comprise the following portions of the said Town respectively, that is to say:

The said Mountain Ward to comprise all that part of the said Town commencing on the Sydenham road at the northern boundary of the said town; thence, running along the said Sydenham road until it intersects King Street; thence, along the said King Street in an easterly direction until it intersects Main Street; thence, along the said Main Street, until it intersects Baldwin or Flamboro' Street; thence, along the same to the basin of the Desjardins Canal; thence, along the said canal until the eastern boundary or limit of the said town is intersected; thence, following the said eastern boundary to the northern boundary line of the said town; thence, following the same to the place of beginning.

The said Canal Ward to comprise all that part of the said town, commencing on King Street at a post planted between the lands owned by Orlando Morley and John Walker; thence running south to the southern boundary of the said town; thence, along the said boundary to the eastern boundary until the Desjardins Canal is intersected; thence, along the said

canal in a westerly direction until East Street is intersected (Coote's Paradise); thence, along Baldwin or Flamboro' Street to Main Street; thence, along the said Main Street in a northerly direction till it intersects King Street; thence along the said King Street to the place of beginning.

The said Foundry Ward to comprise all that part of the said Town, commencing on King Street at a post planted between the lands owned by Orlando Morley and John Walker; thence along the said King Street, west, until it intersects Peel Street; thence, south, until James Street is intersected; thence, westerly, along the said James Street until it intersects the western boundary of the said town; thence, along the western and southern boundary of the said town until the boundary between Wards numbers two and three is intersected; thence, northerly, to the place of beginning; and

The said Valley Ward to comprise all that part of the said town, commencing at the northern boundary of the said town on the Sydenham road; thence, following the north-western limits of the said town to a stone monument within a few feet of the site of the old oatmeal mill; thence, across the stream or creek to a stone monument placed at the distance of five hundred feet from the west bank thereof; thence, along the western boundary of the said town to a stone monument placed on a line at right angles with James Street; thence, along James Street, easterly, until Peel Street is intersected; thence, along Peel Street to King Street; thence, along King Street to Sydenham road; thence, along Sydenham road to the place of beginning.

8. *Goderich*.—To consist of all that part of this Province situate within the county of Huron, and lying within the following limits, that is to say:

Commencing at a point where the south limit of Britannia Road produced intersects the water's edge of Lake Huron; thence, northerly, along the said water's edge to the south pier of the harbour; thence, easterly, along the said pier and south side of the River Maitland, to a point where the west limit of Wellington Street produced intersects the said south side of the River Maitland; thence, due south, along the said produced limit of Wellington Street to the crown of the hill; thence, easterly along the crown of the said hill, following the several windings thereof, to the east end of Gloucester Terrace; thence, southerly, along the eastern limit of the River Maitland, until it intersects the south-easterly limit of Britannia Road; thence, south-easterly along the south-east limit of Britannia Road to an angle thereof; thence, due west, along

the south limit of the said Britannia Road to the place of beginning.

The said Town to be divided into four Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Andrew's Ward, and Saint David's Ward; and to comprise the following portions of the said town respectively, that is to say:

The said Saint George's Ward to comprise all that part of the said town which lies northward of the centre of West Street and westward of the centre of North Street.

The said Saint Patrick's Ward to comprise all that part of the said town which lies northward of the centre of East Street and eastward of the centre of North Street.

The said Saint Andrew's Ward to comprise all that part of the said town which lies southward of the centre of West Street and westward of the centre of South Street; and

The said Saint David's Ward to comprise all that part of the said town which lies southward of the centre of East Street and eastward of the centre of South Street.

9. *London*.—To consist of all that part of this Province situate within the county of Middlesex, and lying within the following limits, that is to say:

All the lands comprised within the old and new surveys of the said town, together with the lands adjoining thereto, lying between the said surveys and the river Thames, producing the northern boundary line of the new survey, until it intersects the north branch of the river Thames, and producing the eastern boundary line of the same new survey, until it intersects the east branch of the river Thames.

The said town to be divided into four Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Andrew's Ward, and Saint David's Ward, and to comprise the following portions of the said town respectively, that is to say:

The said Saint George's Ward to comprise all that part of the said town which lies north of the Northern Line and continuation of Hitchcock and Duke Streets.

The said Saint Patrick's Ward to comprise all that part of the said town which lies between King Street and Saint George's Ward aforesaid.

The said Saint Andrew's Ward to comprise all that part of the said town which lies between Horton Street and Saint Patrick's Ward aforesaid; and

The said Saint David's Ward to comprise all that part of the said town which lies south of Horton Street.

10. *Niagara*.—To consist of all that part of this Province

situate within the county of Lincoln, and lying within the following limits, that is to say :

Commencing at Mississagua Point; thence, westerly, along Lake Ontario to Crookston; thence, along the rear or town line of Niagara to the Black Swamp road; thence, along the eastern limit of the lands of the late Thomas Butler, Esquire, deceased, and the lands of Garret Slingerland, to the north-west angle of the lands of John Eccleston; thence, easterly, to where the lands formerly owned by the Honourable William Dickson and the late Martin McLennon, deceased, come in contact; thence, easterly, along the northern boundary of the lands of the said Martin McLennon, deceased, to the River Niagara; thence, northerly, down the said Niagara River to the place of beginning.

The said Town to be divided into five Wards, to be called, respectively, Saint Lawrence Ward, Saint George's Ward, Saint Patrick's Ward, Saint David's Ward, and Saint Andrew's Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Saint Lawrence Ward to comprise all that part of the said town which lies south of the centre of the street called King Street, which runs directly from the River Niagara, and commencing at the house now occupied by Mr. Walter Elliot, or the Lower Ferry, and terminating at the western limit of the town.

The said Saint George's Ward to comprise all that part of the said town which lies north of the centre of the street forming the northern boundary of Saint Lawrence Ward, and south of the centre of the next parallel street.

The said Saint David's Ward to comprise all that part of the said town which lies north of the street forming the northern boundary of Saint George's Ward, and south of the centre of the next parallel street.

The said Saint Patrick's Ward to comprise all that part of the said town which lies north of the street forming the northern boundary of Saint David's Ward, and south of the centre of the next parallel street.

And the said Saint Andrew's Ward to comprise all that part of the said town which lies north of the street forming the northern boundary of Saint Patrick's Ward.

11. *Peterborough.*—To consist of all that part of this Province situate within the county of Peterborough, and lying within the following limits, that is to say :

Comprising all the lands in the Government Surveys of the present town of Peterborough, and lying north of Townsend

Street, and east of Park Street to the centre of the River Otonabee, as the eastern limit of the said town, and to the centre of the allowance for road forming the boundary line between the Townships of Monohan and Smith, as the northern boundary of the said town—

And divided into four Wards, to be called East Ward, North Ward, Centre Ward, and South Ward, and to comprise the following portions of the said town respectively, that is to say :

The said East Ward to comprise all that part of the said town which lies east of George Street.

The said North Ward to comprise all that part of the said town which lies west of George Street and north of Brock Street.

The said Centre Ward to comprise all that part of the said town which lies west of George Street, south of Brock Street, and north of Simcoe Street.

And the said South Ward to comprise all that part of the said town which lies west of George Street and south of Simcoe Street, including the Government Reserve south of the said town.

SCHEDULE C.

CITIES.

1. *Hamilton*.—The City and Liberties thereof to consist of all that part of this Province situate within the County of Wentworth and lying within the following limits, that is to say :—

Commencing at the north-east corner of lot number eleven, in the Township of Barton, on the waters of Burlington Bay; thence, following the line between lots numbers ten and eleven, in a southerly direction, to the rear of the third concession of the said Township of Barton; thence, along the said concession, westerly, to the intersection of the line between lots numbers twenty and twenty-one of the said Township; thence, in a northerly direction, following the said line between the said lots numbers twenty and twenty-one until it reaches the Marsh at the head of Burlington Bay; thence, along the southerly and easterly margin of the said Marsh, to the waters of Burlington Bay; thence, along the southerly range of Burlington Bay, to the place of beginning, including the several road allowances along the said boundary, and the harbour in front of the said City.

The said City to consist of all that part of the tract of land above described, lying within the following limits, that is to say :—

Commencing at the north-east corner of lot number twelve, in the Township of Barton, on the waters of Burlington Bay; thence, following the line between lots numbers eleven and twelve, in a southerly direction, to the rear of the third concession of the said Township of Barton; thence, along the said concession, westerly, to the intersection of the line between lots numbers twenty and twenty-one of the said Township; thence, in a northerly direction, following the said line between the said lots numbers twenty and twenty-one until it reaches the marsh at the head of Burlington Bay; thence, along the southerly and easterly margin of the said marsh, to the waters of Burlington Bay; thence, along the southerly margin of Burlington Bay to the place of beginning, including the several road allowances along the said boundary, and the harbour in front of the said City.

The said City to be divided into five Wards, to be called respectively Saint George's Ward, Saint Patrick's Ward, Saint Lawrence Ward, Saint Andrew's Ward, and Saint Mary's Ward, and to comprise the following portions of the said City respectively, that is to say:—

The said Saint George's Ward to comprise all that part of the said City which lies south of King Street and west of John Street.

The said Saint Patrick's Ward to comprise all that part of the said City which lies south of King Street and east of John Street.

The said Saint Lawrence Ward to comprise all that part of the said City which lies north of King Street and east of John Street.

The said Saint Andrew's Ward to comprise all that part of the said City which lies north of King Street and between John and MacNab Streets.

And the said Saint Mary's Ward to comprise all that portion of the said City which lies north of King Street and west of MacNab Street.

And so much of the liberties of the said City as are adjacent to the respective Wards shall be attached to the same respectively, and the limits between the respective portions of the said liberties hereby attached to the different Wards of the said City be ascertained by the extension of the boundary lines between the said Wards respectively through the said liberties.

2. *Kingston*.—The City and Liberties thereof, to consist of all that part of this Province situate within the County of Frontenac and lying within the following limits, that is to say:

Commencing at the water's edge on Lake Ontario in the

direction of the line between lots numbers twenty and twenty-one in the first concession of the township of Kingston; thence, in a direct line to the second concession of the said Township of Kingston and across the road, between the first and second concessions to the south-easterly angle of lot number twenty-four in the said second concession; thence, north, on the side line of the said lot number twenty-four to a point in line with the limit between lots numbers four and five on the west side of the great river Cataraqui produced from the said river; thence, along the said limit to the water's edge at low water mark; thence, along the said edge of the great river Cataraqui and along the water's edge at low mark of Lake Ontario with the windings and turnings to the place of beginning, together with all the water lying between the front of the City and the opposite shore of the Township of Pittsburgh, as far as Point Frederick, and beyond Point Frederick all the water lying in front of the said City and Liberties, which may be distant five hundred yards from the main shores of Wolfe Island, Garden Island and Simcoe Island.

The said City to consist of all that part of the tract of land above described lying within the following limits, that is to say :—

Commencing at a point on a line produced five hundred feet from the shore in the direction of the line between lots numbers twenty-three and twenty-four, in the first concession of the Township of Kingston; thence, north, along the said line, to the front of the second concession of the said Township; thence, on the northerly side of the concession road, to the south-easterly angle of lot number twenty-four in the said second concession; thence, north, on the westerly side of the road, to a point directly opposite the boundary line dividing lots numbers one and two, on the west side of the great river Cataraqui; thence, along the said division line, to the water's edge of the said great river Cataraqui; thence, in prolongation of the said division line across the said river, to the water's edge on the easterly side thereof, and along the water's edge at low water mark, to the extreme south-westerly point of Point Frederick, in the Township of Pittsburgh; thence, southerly, parallel to the westerly boundary line of the said City, as hereinbefore set forth, to the distance of five hundred feet from the said south-westerly point of Point Frederick; thence, westerly, in a right line, to the place of beginning—

The said City to be divided into seven Wards, to be called, respectively, Sydenham Ward, Ontario Ward, Saint Lawrence Ward, Frontenac Ward, Cataraqui Ward, Rideau Ward, and

Victoria Ward, and to comprise the following portions of the said City respectively, that is to say :—

The said Sydenham Ward to comprise all that part of the said City which lies westward and southward of a line drawn from the foot of William Street through the centre of the said Street to the limits of the said City.

The said Ontario Ward to comprise all that part of the said City which lies between the last mentioned line of Sydenham Ward and a line drawn from the foot of Brock Street through the centre of the said Street to the limits of the said City.

The said Saint Lawrence Ward to comprise all that part of the said City which lies between the last mentioned line of Ontario Ward and a line drawn from the foot of Princess Street, through the centre of the said Street to the limits of the said City.

The said Cataraqui Ward to comprise all that part of the said City which lies eastward and northward of a line drawn from the foot of Princess Street through the centre of the said street to Montreal Street; thence, through the centre of Montreal Street aforesaid, and across the Artillery Reserve, to the present travelled road known as the "Montreal Road;" thence, through the centre of the said road to the limits of the said City.

The said Frontenac Ward to comprise all that part of the said City which lies northward of the last mentioned line, running through the centre of Montreal Street, and the Montreal Road to the City limits, and northward and eastward of a line extending from Montreal Street (where it intersects Princess Street) through the centre of Princess Street, to the limits of the said City.

The said Rideau Ward to comprise all that part of the said lot number twenty-four, lying on the north side of the continuation of Arthur Street, through the said lot, in a direct line to the Concession Road between the first and second concessions of the said Township of Kingston.

And the said Victoria Ward to comprise all that part of the said lot number twenty-four lying on the south side of the said continuation of Arthur Street aforesaid.

And so much of the Liberties of the said City as are adjacent to the respective Wards, shall be attached to the same respectively, and the limits between the respective portions of the said Liberties hereby attached to the different Wards of the said City, be ascertained by the extension of the boundary lines between the said Wards respectively and through the said Liberties.

3. *Toronto*.—The City and Liberties thereof to consist of all that part of the Province situate in the county of York, and lying between the following limits, that is to say :

Commencing at the distance of one chain, on a course, south, sixteen degrees east, from the south-westerly corner of lot number two, in the first concession from the Bay, in the township of York, in the county of York ; thence, southerly, in the direction of the side line between lots numbers two and three, in that concession, to the distance of five hundred feet from the point at which the said line intersects the margin of the water on the shore of Lake Ontario ; thence, westerly, through the waters of Lake Ontario, following the direction of the curvatures of the shore, and keeping always at the distance of five hundred feet from the margin of the water till the point is attained, which is five hundred feet from the north-westernmost point of the Island or Peninsula, forming the harbour ; thence, across the bay or harbour of York, to a point where a line, drawn southerly from the north-easterly corner of Park lot number twenty-nine, in the said township of York, in the direction of the easterly boundary line of the said Park lot, intersects the margin of the water on the shore of Lake Ontario ; thence, northerly, in the direction of the said line so drawn from the said corner of the said Park lot through the said corner, to the point at which the said line so drawn through the said corner intersects the northerly boundary line of the allowance for road between the Park lots and the second concession from the Bay in the said township of York ; thence, easterly, along the said northerly boundary line of the said allowance for road, to the easterly shore or water's edge of the River Don ; thence, southerly, along the water's edge, on the eastern side of the said river, to the point where the said water's edge intersects the southerly boundary line of the allowance for road, in front of the said first concession ; thence, easterly, along the southerly boundary line of the allowance for road, in front of the said first concession, to the place of beginning—

The said City to consist of all that part of the tract of land above described lying within the following limits, that is to say :

Commencing at the distance of one chain, on a course north, seventy-four degrees east, from the south-east angle of Park lot number three, in the said township of York ; thence, south, sixteen degrees east, upon a continuation of the allowance for road between Park lots numbers two and three to the water's edge of the Bay in front of the said city ; thence, westerly,

along the water's edge of the said Bay to the point at which the westerly limit of the allowance for road between Park lots numbers eighteen and nineteen, in the said township of York, being produced southerly, intersects the said water's edge; thence, northerly, in the direction of the said westerly limit of the said allowance for road to the distance of four hundred yards north of the northerly boundary line of Queen Street; thence, easterly, parallel to Queen Street to the easterly boundary line of the allowance for road between Park lots numbers two and three; thence, south, sixteen degrees east, along the easterly boundary line of the said allowance for road, four hundred yards, more or less, to the place of beginning. And the remainder of the said tract, to constitute the Liberties of the said City.

The said City to be divided into six Wards, to be called respectively the Wards of St. James, St. David, St. Lawrence, St. George, St. Andrew, and St. Patrick, and to comprise the following portions of the said City respectively, that is to say :

The said Ward of St. James to comprise all that part of the said City, lying between the northerly boundary line of King Street east, the westerly boundary line of Yonge Street, the easterly boundary line of Nelson Street, and the northerly boundary line of Queen Street east.

The said Ward of St. David to comprise all that part of the said City lying to the eastward of the westerly boundary line of Nelson Street, and to the north of the northerly boundary line of King Street east.

The said Ward of St. Lawrence to comprise all that part of the said City lying to the southward of the northern boundary line of King Street east, and to the eastward of the westerly boundary line of Yonge Street.

The said Ward of St. George to comprise all that part of the said City, lying to the southward of the northerly boundary line of King Street, and to the westward of the westerly boundary line of Yonge Street.

The said Ward of St. Andrew to comprise all that part of the said City lying between the northerly boundary line of King Street east, and the northerly boundary line of Queen Street east, and west of the westerly boundary line of Yonge Street.

And the said Ward of St. Patrick to comprise all that part of the said City lying to the north of the northerly boundary line of Queen Street west, and west of the westerly boundary line of Yonge Street.

And so much of the Liberties of the said City as lies to the

southward and eastward of the St. Lawrence Ward, shall be and is hereby attached to the St. Lawrence Ward; so much thereof as lies to the northward and eastward of the St. David's Ward, shall be and is hereby attached to the said St. David's Ward; so much thereof as lies to the northward of the said St. James's Ward, shall be and is hereby attached to the said St. James's Ward; so much thereof as lies to the southward and westward of the St. George's Ward, shall be and is hereby attached to the said St. George's Ward; so much thereof as lies to the westward of the St. Andrew's Ward, shall be and is hereby attached to the said St. Andrew's Ward; and so much thereof as lies to the northward and westward of the St. Patrick's Ward, shall be and is hereby attached to the said St. Patrick's Ward; the limits between the respective portions of the said Liberties hereby attached to the different Wards of the said City being ascertained by the extension of the boundary lines between the said Wards respectively, through the said Liberties, except the boundary line between the portions hereby attached to the St. Lawrence Ward, and that hereby attached to the St. David's Ward, which shall consist of the northerly boundary line of King Street east to the River Don.

12. VIC.—CAP. 85.

An Act to amend the several Laws therein mentioned, relative to the appointment and duties of Inspectors of Weights and Measures, in Upper Canada.

[25th April, 1849.]

Preamble.

Secs. 4, 5 & 7
of Act of U. C.
4 Geo. IV.
c. 16, and
secs. 1 & 2 of
Act of U. C.
3 Vic. c. 17,
repealed.

WHEREAS the Laws now in force in Upper Canada, with respect to the appointment and duties of Inspectors of Weights and Measures, are found to require amendment; *Be it therefore, &c.,* That the fourth, fifth, and seventh sections of the Act of Legislature of Upper Canada, passed in the fourth year of the Reign of His Majesty King George the Fourth, intituled, *An Act to repeal an Act passed in thirty-second year of His Majesty's Reign, intituled, An Act to establish the Winchester Measure, and a Standard for other Weights and Measures throughout this Province, and to appropriate a sum of money for the purpose of obtaining a Standard for Weights and Measures for this Province,*—and the first and second sections of the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act to alter and amend an Act passed in the thirty-second year of the reign of His late Majesty King George the Third, intituled, An*

Act to establish the Winchester Measure, throughout this Province,—shall be, and the same are hereby repealed.

2.—*And be it, &c.,* That from and after the passing of this Act, the several Inspectors of Licenses in Upper Canada shall have the charge of the Standard Weights and Measures within their respective *Districts* or Divisions, and be Inspectors of Weights and Measures, within the same: *Provided always,* that each and every the Inspector or Inspectors so appointed or to be appointed as aforesaid, before or immediately upon entering upon the duties of his office, shall take and subscribe to the following oath in open Quarter Sessions :

Inspectors of Licenses in Upper Canada to be also Inspectors of Weights and Measures. They shall take an oath of office. See 18 Vic. c. 135.

“I. A. B., do hereby promise and swear that I will carefully preserve all such Weights and Measures as shall be given me in charge or for my use as Inspector, as a Standard for the *District* (or Division, *as the case may be*) of — and that I will honestly and faithfully discharge the duties of Inspector of Weights and Measures, for such *District* (or Division) pursuant to the true intent and meaning of the several laws in force in Upper Canada, according to the best of my abilities and knowledge, and deliver them over to my successor in office, duly appointed for that purpose, when required so to do. So help me God.”

The oath.

3.—*And be it, &c.,* That it shall be the duty of each Inspector, at all proper times when application shall be made to to him for that purpose, carefully to examine and compare any and all Weights and Measures which shall be presented to him for that purpose within his *District* or Division as such Inspector, with the Standard provided by law, and when found of the true Weight and Measure, to mark, stamp or brand the same, (if a Measure, as near the two ends, top and bottom, as may be) with the stamp or brand heretofore provided or to be provided for that purpose, or with the initials of the name of the then reigning Sovereign.

Inspector to inspect (and mark if correct) all Weights and Measures submitted to them.

4.—*And be it, &c.,* That it shall be the duty of each and every such Inspector of Weights and Measures, once in each year or oftner, upon such day or days, and in such place or places within their respective *Districts* or Divisions, as shall by the Magistrates in Quarter Sessions, at least once and not oftener than twice in each year, be named and appointed, to attend with the stamps and copies of such Standard Weights and Measures in his custody, to examine and compare, and stamp if found correct, all such Weights and Measures as shall be brought to him for that purpose; and that every Store-keeper, Shop-keeper, Miller, Distiller, Butcher, Broker, Huckster or

Inspector to attend for that purpose at such times and places as the Magistrates in Q. S. shall appoint

other trading person, Wharfinger or Forwarder in any *District* place in Upper Canada who shall, two months after the appointment of an Inspector therefor, use any Weight or Measure, which has not been duly stamped according to Law, or which shall be found light or otherwise unjust, shall, on conviction, forfeit a sum of not more than five nor less than two pounds, to be recovered under the provisions of the fifth section of this Act; And every such light or unjust Weight and Measure so used shall on being discovered, by any Inspector so appointed, or to be appointed as aforesaid, be seized, and on conviction of the person using the same, shall be forfeited and the same be broken up by the Inspector.

Inspector
may enter
shops, &c., to
examine
Weights and
Measures.

Forfeiture of
false or
unstamped
Weights and
Measures.

Further
penalty.

How
recovered
and applied.

5.—*And be it, &c.*, That it shall be lawful for every such Inspector at all reasonable times to enter any shop, store, warehouse, stall, yard or place whatsoever within his *District* or Division, where any commodity shall be bought, sold or exchanged, weighed, exposed or kept for sale, or shall be weighed for conveyance or carriage, and there to examine all Weights, and Measures, Steel-yards or other Weighing Machines, and to compare and try the same with the copies of the Standard Weights and Measures provided by Law; and if upon such examination it shall appear that the said Weights or Measures or any or either of them are unstamped or are light or otherwise unjust, the same shall be liable to be seized and forfeited, and the person or persons in whose possession the same shall be found, shall, on conviction, forfeit a sum not exceeding two pounds for the first and five pounds for every subsequent offence, which penalty together with all reasonable costs shall be recoverable before any Justice of the Peace, on the oath of the Inspector or of any other credible witness, and shall if not forthwith paid be levied by distress and sale of the goods and chattels of the offender, and in default of distress such offender shall be committed to the Common Gaol of the *District* wherein such conviction shall take place for a term not exceeding one month; and such penalty, and all other penalties imposed by this Act, when recovered, shall belong to the Crown for the public uses of the Province, and shall be paid over to the Inspector, and by him accounted for in the same manner as other public moneys coming into his hands by virtue of his office; and any person or persons who shall have in his, her or their possession a Steel-yard or other weighing Machine which shall on such examination be found incorrect or otherwise unjust, or who shall neglect or refuse to produce for such examination when thereto required, all Weights, Measures, Steel-yards or other Weighing Machines, which shall be in

his, her or their possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like penalty to be recovered and applied as aforesaid: *Provided always*, that no such penalty shall be incurred in any Division, *District* or Locality, until two months at least after a Standard of Weights and Measures shall have been received by the Inspector appointed therefor according to law.

Proviso.

6.—*And be it, &c.*, That if any person or persons shall make, forge or counterfeit, or cause or procure to be made, forged or counterfeited, or knowingly act or assist in the making, forging or counterfeiting any stamp or mark now used, or which may hereafter be legally used for the stamping or making of any Weights or Measures in any *District* or place in Upper Canada, each such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be fined and imprisoned in the Common Gaol of the *District* where the conviction shall take place, provided such fine shall not exceed twenty pounds, and that such imprisonment shall not exceed three calendar months; and if any person shall knowingly sell, alter, dispose of or expose to sale any Weight or Measure, with such forged or counterfeit stamp or mark thereon, every person so offending shall, for every such offence, forfeit, on conviction, a sum not exceeding ten pounds, or less than forty shillings, to be recovered under the provisions of the fifth section of this Act; and that all Weights and Measures which such forged or counterfeited stamps or marks shall be forfeited, and the same be broken up by the Inspector.

Punishment of persons forging stamps, &c.

7.—*And be it, &c.*, That if any Inspector shall stamp, brand or mark any Weight or Measure without having first duly compared and verified the same with and by the Standard Weights and Measures provided by Law for that purpose, or shall be guilty of a breach of any duty imposed upon him by this Act, he shall on conviction forfeit a sum not exceeding five pounds to be recovered and applied as aforesaid.

Penalty on Inspector stamping Weights or Measures without due examination

8.—*And be it, &c.*, That for every Weight or Measure marked or stamped by any such Inspector, he shall be entitled to demand and receive six pence, and no more.

Fee to Inspector.

9.—*And whereas* provision by Law is now made for procuring one set of Standard Weights and Measures only for each of the several *Districts* in Upper Canada; *And whereas* in several of such *Districts* a Division has been made for revenue or other purposes, and an Inspector appointed for each of such Divisions: *Be it, &c.*, That in all such cases and in case of any

Recital.

With whom

the Standards shall be deposited when there is more than one Inspector in a District.

Proviso.

Division hereafter to be made, the Standard Weights and Measures for such *Districts* respectively shall be lodged for safe custody with such Inspector as the Magistrates in Quarter Sessions assembled may direct, for the use however of the several Inspectors within such *Districts* respectively: *Provided always*, that in the exercise of the various duties and functions imposed by this Act, every such Inspector shall be confined to his own Division.

Notice of Inspector's attending to stamps, &c.

10.—*And be it, &c.*, That every such Inspector shall give one month's notice in one or more newspapers of the *District* or Division in which he is acting, from time to time, and at least once in each year, of the different days and places to be appointed as aforesaid by the Magistrates in Quarter Sessions, when and where he will attend with the stamps and copies of the Standard Weights and Measures, to examine, compare and stamp all Weights and Measures made use of in buying or selling, if found correct.

Present Inspectors to give over the Standards in their possession to the Inspectors under this Act.

11.—*And be it, &c.*, That every Inspector of Weights and Measures appointed under the provisions of the Acts hereinbefore mentioned and in part repealed, shall, on reasonable demand, hand over to the proper Inspector appointed under the provisions of this Act, all and every Standard Weight and Measure, and all and every balance, and all and every stamp, brand or other machine, or copy thereof, in his custody as such Inspector, under penalty of five pounds, for every refusal, to be recovered and applied in the same manner as other penalties imposed arising under the provisions of this Act.

Penalty for refusal.

Municipal bodies appointing Inspectors may have copies of Standards adjusted by the District Inspector.

12.—*And be it, &c.*, That whenever any Municipal Body, now or hereafter to be formed in or for any City, Town or Incorporated Village in Upper Canada, shall appoint an Inspector of Weights and Measures for such City, Town or Incorporated Village, every such Inspector may apply to the Inspector appointed or to be appointed under the previous provisions of this Act, for the *District*, Division or County, within which such City, Town or Incorporated Village shall be situate, to adjust a copy of any of the Standard Weights and Measures for the use of such City, Town or Incorporated Village, by the Standard Weights and Measures in possession of or used by such Inspector; and upon producing to such Inspector such Weights and Measures as shall be required for such City, Town or Incorporated Village, it shall be the duty of the said Inspector carefully to compare and adjust, and to seal, stamp or mark the same as provided by law; and that the Inspector, for so doing, shall be entitled to the same fees

Fees for stamping the same.

or charges as for the like services in other cases : *Provided always*, that whenever any such Municipal Body shall have appointed an Inspector of Weights and Measures, and obtained such copies of the Standard Weights and Measures for the use of any such City, Town or Incorporated Village, the powers, duties and liabilities of the Inspectors appointed or to be appointed under the previous provisions of this Act, as to such City, Town or Incorporated Village, shall cease, and thenceforth devolve upon and be exercised by the Inspector thereof.

Duties and powers of District Inspector to be transferred to the Inspector for the Municipality.

13.—*And be it, &c.*, That whenever any Inspector of Weights and Measures shall be removed from office, or shall resign or remove from the place for which he shall have been appointed, it shall be the duty of the person so removed, resigning or removing, to deliver to his successor in office all the Beams, Stamps and Standard Weights and Measures in his possession as such Inspector, and that in case of the death of such Inspector, his representatives shall in like manner deliver the same to his successor in office, and that in case of refusal or neglect to deliver such Standards entire and complete, in addition to the penalties hereinbefore provided, the successor in office may maintain an action on the case, against the person or persons so refusing or neglecting, and recover double the value of such Standards as shall not have been delivered, and in every such action in which judgment shall be rendered for the plaintiff, he shall recover double costs, and one moiety of the damages recovered in every such action, shall be retained by the person recovering, and the other shall be applied in supplying such Standards as may be required in his office.

Standards to be delivered over to successors in office.

Action given for standards not so delivered.

14.—*And be it, &c.*, That whenever any person shall be convicted under this Act, before any Justice of the Peace, and the penalty which such person shall have been condemned to pay shall exceed forty shillings currency, and such person shall think himself aggrieved by such conviction and condemnation, such person may appeal to the next Court of General Quarter Sessions of the Peace which shall be holden not less than twelve days after the day of such conviction, in like manner, and on the like conditions, and with the like effect, and subject to the like provisions as are provided with regard to appeals from conviction before Justices of the Peace, in and by the thirty-third and thirty-fourth sections of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for consolidating and amending the Statutes in this Province relative to offences against the person.*

Appeal to Quarter Sessions given in certain cases on the conditions, &c., mentioned in sec. 38 of 4 & 5 Vic. c. 26.

12 VIC.—CAP. 87.

An Act to amend an Act passed in the Parliament of Upper Canada in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, An Act to provide for the construction of Aprons to Mill Dams over certain Streams in this Province, and to make further provision in respect thereof.

[30th May, 1849.]

Preamble.

WHEREAS it is necessary to declare that Aprons to Mill Dams which are now required by Law to be built and maintained by the owners and occupiers thereof in Upper Canada, should be so constructed as to allow a sufficient draught of water to pass over such Aprons as shall be adequate in the ordinary flow of the Streams to permit Saw Logs and other Lumber to pass over the same without obstructions: *Be it, &c.,* That on, from and after the first day of October next, it shall be the duty of each and every owner or occupier of any Mill Dam at which an Apron or Slide is by the said Act required to be constructed, so to have altered, and if not already built, to have constructed such Apron or Slide so as to afford depth of water sufficient to admit of the passage over such Apron or Slide of such Saw Logs, Lumber and Timber, as are usually floated down such Streams or Rivers whereon such Dams shall be erected; *Provided always,* that every such owner or occupier of any such Dam may construct a Waste Gate or put up Brackets and Slash Boards in, upon and across any such Apron for the purpose of preventing any unnecessary waste of water therefrom, and to keep the same closed at all times when no person or persons shall be ready and require to pass or float any Craft, Lumber or Saw Logs over any such Apron or Slide, but not until such Craft, Raft, Lumber or Saw Logs shall have gained the main channel of the Stream: *Provided also,* that no person shall be required to build such Aprons or Slides on small Streams unless required for the purposes of rafting or floating down Lumber and Saw Logs as aforesaid.

Aprons or slides to dams to be constructed in a certain manner.

Proviso:
Water gates and slash-boards may be used on the dam on certain conditions.

Proviso as to certain small streams.

Special provision with regard to the River Ottonabee.

2.—*And be it, &c.,* That no Apron to any Mill Dam on the River Ottonabee, shall be less than thirty-two feet wide by an inclined plane of five feet to a perpendicular of one foot, and so in proportion to the height of the Dam; and that side pieces of at least one foot in height, shall be fixed on the outsides of every such Apron to confine the water and prevent the timber from falling off at the sides.

Penalty on owners of dams

3.—*And be it, &c.,* That every owner or occupier of any such Dam, who shall neglect or refuse to make and construct,

if not already made and constructed, and keep in repair an Apron of such description as aforesaid, shall pay a penalty of ten shillings per day, for every day during which such owner or occupier shall have neglected to comply with the requirements of this Act, and such penalty shall be recoverable before any two Justices of the Peace for the *District* in which the offence shall have been committed, on the oath of two credible Witnesses, and if not paid, shall be levied by distress and sale of the goods and chattels of the offender, by a Warrant under the hand and seal of such Justices or either of them, and shall be paid to the Treasurer of the Municipal Corporation having jurisdiction within the locality where such Dam shall be erected, for the general uses of the Municipality.

neglecting to comply with the requirements of this Act.

How recoverable.

How applied.

4.—*Provided always, and be it, &c.*, That in case any Apron now constructed or hereafter to be constructed shall be carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam to which the same was attached, shall not be liable to such penalty as aforesaid, provided such Apron be repaired or constructed in conformity to this Act, so soon as the state of the Stream shall be such as to permit such owner or occupier to repair or re-construct the same with safety; but if he fail then to repair or re-construct such Apron, he shall be liable to the penalty aforesaid.

A certain time allowed for repairing aprons carried away or damaged.

5.—*And be it, &c.*, That it shall be lawful for all persons to float Saw Logs and other Timber Rafts and Craft down all Streams in Upper Canada, during the Spring, Summer and Autumn Freshets, and that no person shall, by felling trees or placing any other obstruction in or across such Stream, prevent the passage thereof; *Provided always*, that no person using such Stream in manner and for the purposes aforesaid, shall alter, injure or destroy any Dam or other useful erection in or upon the bed of or across any such Stream, or do any unnecessary damage thereto or on the banks of such Stream; provided there shall be a convenient Apron, Slides, Gate, Lock, or opening in any such Dam or other structure made for the passage of all Saw Logs and other Timber, Rafts and Crafts authorized to be floated down such Stream as aforesaid.

All persons may float logs, &c., down streams in Upper Canada.

Proviso: such persons not to damage any dam or other structure on such streams.

Provided they have proper slides, &c.

12 VIC.—CAP. 90.

An Act to substitute Yearly Returns for the Quarterly Returns required of Clergymen and others by the Sixteenth Section of the Census Act.

[25th April, 1849.]

WHEREAS it is unnecessary that the Returns hereinafter mentioned should be made oftener than once in each year :

Preamble.

Certain returns required by 10 & 11 Vic. c. 14, to be made only once a year.

Be it, &c., That for and notwithstanding any thing in the sixteenth section of an Act passed in the Session held in the tenth and eleventh years of her Majesty's reign, and intituled, *An Act for taking the Census of this Province, and obtaining Statistical information therein*, the Registry in the said section mentioned, shall be forwarded by the person by whom it shall have been kept, to the proper Clerk of the Peace, or City or Town Clerk, within five days after the first day of January in each year, and not oftener.

While the Census Act shall be in force, certain returns not to be required.

2.—*And be it, &c.,* That so long as the Act last above mentioned shall remain in force, it shall not be necessary that any Minister, Clergyman, or Justice of the Peace, should return to any Clerk of the Peace, the list of the marriages by him solemnized, required by the sixth Section of the Act of the Legislature of Upper Canada, passed in the eleventh year of the reign of his Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted, and to provide for the future solemnization of Matrimony in this Province*, anything in the said Section to the contrary notwithstanding.

12 VIC.—CAP. 91.

An Act to amend certain Acts for the Relief of Religious Societies.

[30th May, 1849.]

Preamble.

Act of U. C. 3
9 Geo. IV. c. 2.

Act of
Canada,
8 Vic. c. 15.

Further time
allowed for
registration
of deeds.

Exception.

WHEREAS it is expedient to extend the time for the Registry of Deeds heretofore executed under the provisions of the Act of the Parliament of Upper Canada, passed in the ninth year of the reign of King George the Fourth, intituled, *An Act for the Relief of the Religious Societies therein mentioned*, and by the Act of the Province of Canada, passed in the eighth year of her Majesty's reign, and intituled, *An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada to other denominations of Christians than those therein enumerated*, but which the Trustees have neglected to register: *Be it, &c.,* That all Deeds heretofore executed for any of the uses, interests or purposes of either of the said Acts shall be as valid and effectual, if the same be registered within twelve months after the passing of this Act, as if they had been registered within the time limited by either of the before in part recited Acts, except in so far as they may be affected by the prior registration of other deeds or instruments relating to the same lands.

2.—And whereas under the said Acts divers Religious Societies or Congregations have by their Trustees acquired lands which from circumstances have become inappropriate to the purposes for which they were acquired, and it would be for the advantage of such Societies or Congregations that their Trustees should be enabled to dispose of any such lands and acquire others better adapted for their purposes: *Be it, &c.*, That it shall and may be lawful for the Trustees for the time being, of each of the Religious Societies or Congregations to which the said Acts are applicable, and the said Trustees of each respective Society or Congregation are, as such Trustees, hereby authorized from time to time, upon the express consent of the Conference, Synod or Body having the direction of the temporal affairs of such Societies or Congregations respectively, first had therefor, by Deed under their hand and seal of office, (which seal each body of Trustees is hereby empowered to have and make, and from time to time to alter) to lease, mortgage, sell and convey or exchange such of the lands and tenements held or to be held by any of the said respective Trustees, in such portions and in such manner as from time to time may be deemed by the Trustees thereof necessary and useful for the purposes connected with the particular Trust: subject, nevertheless, to the consent of such Conference, Synod or Body, as aforesaid: and the receipt of the Trustees for the purchase money in any such Deed mentioned, shall be an absolute discharge to the purchaser, who shall be in no way bound to see to the application of the same, or of any part thereof; *Provided always*, That the moneys arising from the sale or mortgage of any such lands which shall have been acquired by the Trustees by Deed of sale or mortgage shall be applied by the Trustees to the purchase of other lands to be held by them for like purposes and trusts, or to the improvement of the same or other lands held by them upon the Trusts: *And provided also*, That no lands acquired by the Trustees by free gift for special purposes shall be sold by the Trustees without the consent of the Grantor or of those who legally represent the Grantor.

Recital.

Trustees may alienate property for the advantage to the congregation and with the consent of the congregation, &c.

Effect of the receipts of Trustees for the purchase money.

Proviso as to application of purchase money.

Proviso as to lands given for special purposes.

12 VIC.—CAP. 92.

An Act to enable the Trustees of Churches and Parsonages and other Trusts belonging to the Wesleyan Methodist Church in Canada, more conveniently to manage and dispose of their Estates, and for other purposes therein mentioned.

[30th May, 1849.]

WHEREAS by virtue of an Act of the Parliament of the Province of Upper Canada, passed in the ninth year of the

Preamble.

Act of U. C.
9 Geo. IV. c.2.

reign of King George the Fourth, intituled, *An Act for the relief of the Religious Societies therein mentioned*, and of another Act of the Parliament of the said Province, passed in the third year of her Majesty's reign, Religious Congregations or Societies of the Wesleyan Methodist Church in Canada, by Trustees, as authorized by the said Acts, have in several instances acquired certain lands, which, from circumstances, have become inappropriate for the purposes for which the same were obtained, and the said Trustees are unable either to exchange or otherwise to dispose of the same for the Trust purposes, and are also prevented from raising money, either by way of loan or of rental, on the Trust Estate, notwithstanding it would, in many instances, manifestly subserve the best interests of the said Trusts: And whereas it would be beneficial to the said Trusts to facilitate the management and disposal of the Trust property by the respective Trustees, subject however in all cases, to the consent of the Conference of the said Church: *Be it, &c.*, That it shall and may be lawful for the Trustees for the time being, of each of the Religious Congregations of the said Wesleyan Methodist Church in Canada, and the said Trustees of each respective Congregation are, as such Trustees, hereby authorized, from time to time, upon the express consent of the Conference of the said Wesleyan Methodist Church first had therefor, by Deed under their hand and seal of office, (which seal each body of Trustees is hereby empowered to have and make, and from time to time to alter), to lease, mortgage, sell and convey or exchange such of the lands and tenements held or to be held by any of the respective Trustees, in such portions and in such manner as from time to time may be deemed by the Trustees thereof necessary and useful for the purposes connected with the particular Trust; subject nevertheless to the consent of the Conference as aforesaid; and the receipt of the Trustees for the purchase money in any such deed mentioned, shall be an absolute discharge to the purchaser, who shall be in no way bound to see to the application of the same, or of any part thereof; *Provided always*, That the moneys arising from the sale or by mortgage of any such lands which shall have been acquired by the Trustees by Deed of sale or mortgage shall be applied by the Trustees to the purchase of other lands to be held by them for like purposes and Trusts, or to the improvement of the same or other lands held by them upon like Trusts: *And provided also*, That no lands acquired by the Trustees by free gift for special purposes shall be sold by the Trustees without the consent of the Grantor or of those who legally represent the Grantor.

Trustees
empowered
to convey the
Trust property
with the
consent of
the Conference.

Effect of the
receipt of the
Trustees.

Proviso as to
the applica-
tion of pur-
chase money,
&c.

Proviso as to
lands given
for special
purposes.

12 VIC.—CAP. 94.

An Act to detach a certain tract of land from the Midland District, and to annex it to the District of Bathurst.

[30th May, 1849.]

WHEREAS from the peculiar position of the tract of land hereinafter mentioned, its inhabitants cannot without great inconvenience and expense attend the Courts in the Midland District, to which it now belongs, but could much more conveniently attend those held in the District of Bathurst: *Be it, &c.*, That all that tract of land lying to the north-west of the Townships of Palmerston and Clarendon, in the Midland District, and between the said Townships and the Ottawa River, and bounded on one side towards the north-east by the present line of the District of Bathurst, and on the other side towards the south-west by a line drawn parallel to the general course of the line last mentioned, from the western corner of the said Township of Clarendon to the Ottawa River, shall be and the said tract of land is hereby detached from the Midland District, and shall hereafter form part of the District of Bathurst; *Provided always*, that all suits, actions, prosecutions or proceedings of any kind commenced before the passing of this Act, shall be continued and proceeded in, and execution shall be done therein as if this Act had not been passed.

Preamble.

A certain tract detached from the Midland District and annexed to the District of Bathurst.

Proviso as to pending suits, &c.

12 VIC.—CAP. 95.

An Act to define the boundary between the Districts of Bathurst and Johnstown.

[25th April, 1849.]

WHEREAS doubts have arisen as to the precise boundary between the Bathurst and Johnstown Districts, so that it is uncertain in which District certain property is situate; and it is expedient and necessary to remove such doubts, and to define the said boundary: *Be it, &c.*, That the middle of the Rideau Lake and River, in front of the Townships of North Burgess, North Elmsley, and Montague, has been and is the boundary line between the said District of Bathurst and the said District of Johnstown: *Provided always*, that wherever the line drawn along the middle of the said Lake and River, within the limits aforesaid, passes over any island, such island shall be deemed to have been and is hereby declared to be in the said District of Bathurst if the greater part thereof lies north of the said line, and in the District of Johnstown if the greater part thereof lies south of the said line.

Preamble.

What shall be the line between the Districts of Bathurst and Johnstown.

12 VIC.—CAP. 96.

An Act to divide the District of Huron, in the Province of Canada, and for other purposes therein mentioned.

[30th May, 1849.]

Preamble.

County Substitution Act of this Session (c. 78) cited.

County of Huron divided into three Counties.

Perth.

Bruce.

Huron.

WHEREAS from the great extent of the *District of Huron* as at present constituted, and the consequent distance of some parts of it from the *District Town*, the inhabitants of those parts suffer great inconvenience; and whereas also, from the vastly increasing population and agricultural advancement thereof, it is expedient that the said *District* should be divided, and certain portions of the same should be set off and erected into new and separate Counties, to remain united to that of Huron until they shall be disunited under the provisions of the Act passed in the present Session, and intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for Temporary Unions of Counties for judicial and other purposes, and for the future dissolutions of such Unions as the increase of wealth and population may require: Be it, &c.*, That for all the purposes of the Act cited in the Preamble to this Act, the County of Huron shall be divided into three Counties, to be called respectively, the County of Huron, the County of Perth, and the County of Bruce: and the County of Perth shall include and consist of the Townships of Blanchard, Hibbert, Fullarton, Logan, Downie, (including the Gore of Downie,) Ellice, Easthope North, Easthope South, (including the Town of Stratford,) Elma and Wallace, in the now County of Huron, and Mornington in the now County of Waterloo; the County of Bruce shall include and consist of the Townships of Huron, Kinloss, Culross, Carrick, Kincardine, Greenock, Brant, Bruce, Saugeen, Elderslie and Arran; and the County of Huron shall include and consist of all the remainder of the now County of Huron (including the Town of Goderich,) but the said three Counties of Huron, Perth and Bruce shall remain united and form a Union of Counties for all the purposes of the Act last aforesaid, until such Union be dissolved in the manner provided in the said Act.

To what County a certain peninsular tract and certain islands shall belong.

2.—*And be it, &c.*, That all that Peninsular Tract of Land lying to the northward of the Townships of Derby, Arran and Saugeen, and between Lake Huron and the Georgian Bay, and known as the Indian Reserve, together with every Island in Lake Huron or the Georgian Bay, any portion of which lie within ten miles of the shore of the said Peninsular Tract of Land, (unless such Island shall lie further south than the

northern boundary line of the said Townships of Derby, Arran and Saugeen,) shall be annexed to and form part of the County of Waterloo: and that every such Island in Lake Huron as shall lie further south than the said boundary line, shall form part of such of the said Counties of Huron or Bruce respectively as such Island shall lie most adjacent to.

3.—*And whereas* the population of the said County of Perth exceeds twelve thousand, and from its geographical position it is expedient that provision be made for its separation from the said Union without waiting till its population shall be such as is required by the tenth section of the said Act recited in the Preamble to this Act: *Be it, &c.*, That the said County of Perth shall, for all the purposes of the Act last aforesaid, be considered and dealt with as if a Proclamation had issued under the tenth section of the said Act, naming the Town of Stratford as the County Town thereof, and erecting the Town Reeves of the said County then elected or thereafter to be elected for the same, into a Provisional Municipal Council for the said County, and declaring such Municipal Council a Provisional Municipal Council for the same under the said Act, until the dissolution of the Union of the said County with the Counties of Huron and Bruce; and the said Town Reeves shall accordingly be a Provisional Municipal Council for the said County of Perth, and shall have and exercise all the powers by the said Act vested in any such Provisional Municipal Council.

County of Perth to be considered as if a proclamation had issued under sec. 10 of the said Act, c. 78.

County Town appointed, &c.

4.—*And be it, &c.*, That when the Union of the said County of Perth and the Counties of Huron and Bruce shall be dissolved in the manner provided by the Act aforesaid, a Registrar shall be appointed for the said County of Perth, and a Registry Office for the Registration of Deeds shall be kept in and for the same at the County Town thereof, in the same manner and under the same provisions as in other Counties in Upper Canada.

A Registry Office to be kept in the County of Perth.

12 VIC.—CAP. 98.

An Act to divide the Township of Cayuga, in the District of Niagara, into two Townships.

[25th April, 1849.]

WHEREAS the Municipal Council of the *District of Niagara* have by their Petition prayed that the Township of Cayuga in the said *District*, be divided into two Townships in the manner hereinafter mentioned, and by reason of the extent of the said Township, it is expedient so to divide the same: *Be it, &c.*,

Preamble.

Township of
Cayuga divi-
ded into two
Townships.

That from and after the thirty-first day of December next, the said Township of Cayuga shall be and is hereby divided for all purposes whatsoever into two Townships, the one to be called the Township of South Cayuga, and the other to be called the Township of North Cayuga; and the said Township of South Cayuga shall consist of and include all that part of the present Township of Cayuga lying on the south side of the Grand River, and to the south-east of the block of lands called Jones' Tract; and the said Township of North Cayuga shall consist of and include the remainder of the present Township.

12 VIC.—CAP. 99.

An Act to divide the Townships of Leeds and Lansdown, in the District of Johnstown.

[30th May, 1849.]

Preamble.

Proceedings
hitherto had
for certain
purposes in
Leeds and
Lansdown
legalized.

WHEREAS the greater part of the Townships of Leeds and Lansdown, in the *District* of Johnstown, in Upper Canada, are divided by the waters of the Gananoque River, Wiltsie and South Lakes, so as to prevent convenient intercourse between the front and rear of the said Townships; and whereas the inhabitants of the front of the said Townships have for many years past been accustomed to hold Township Meetings together as one Township, under the name of the Front of Leeds and Lansdown, and to transact public business thereat for Municipal and other purposes, as if they were one Township; and the inhabitants of the rear of the said Townships have followed the like custom, under the name of the Rear of Leeds and Lansdown; and whereas it is desirable to confirm the custom which has so long prevailed, and to affirm and declare by law that such union of the said Townships shall be valid for the purposes aforesaid: *Be it, &c.*, That all proceedings hitherto had for Municipal or Election purposes by the inhabitants of the Township of Leeds residing in front of the sixth Concession of the said Township, and by the inhabitants of the Township of Lansdown residing in front of the seventh Concession of the said Township, assembled together for such purposes, and all similar proceedings hitherto had by the inhabitants of the remaining portions of the said Townships assembled together for like purposes, shall be as valid and effectual in law as if the said Townships had been by Legislative enactment set apart and divided in the said manner for such purposes.

2.—*And be it, &c.*, That the first, second, third, fourth and fifth Concessions of the said Township of Leeds, and the first, second, third, fourth, fifth and sixth Concessions of the said Township of Lansdown, shall, for all Municipal and Election purposes, be united together and formed into a Township, to be called the Front of Leeds and Lansdown; and that the remainder of the said Townships for like purposes, shall be united together and formed into one Township, to be called the Rear of Leeds and Lansdown.

Two new Townships formed out of Leeds and Lansdown.

12 VIC.—CAP. 100.

An Act to alter the boundary line between the Townships of Hallowell and Sophiasburgh, in the District of Prince Edward.

[25th April, 1849.]

WHEREAS from the local situation of the Townships of Hallowell and Sophiasburgh, certain of the inhabitants thereof are now situated at an inconvenient distance from the places where the respective Township meetings are held, which inconvenience would be remedied by an alteration of the boundary line between the said Townships: *Be it, &c.*, That that part of the Township of Sophiasburgh lying west of Lot number sixty-four, in the first Concession, and of Lot number sixty-one in the second Concession, together with the Irvine and Gerow Gores, be taken from the Township of Sophiasburgh, and attached to and hereafter form part of the Township of Hallowell.

Part of Sophiasburgh annexed to Hallowell.

2.—*And be it, &c.*, That that part of the third Concession from the Sophiasburgh line to the west side of Lot number fifty-one, be taken from the Township of Hallowell and attached to and hereafter form part of the Township of Sophiasburgh.

Part of Hallowell annexed to Sophiasburgh.

12 VIC.—CAP. 101.

An Act to appoint Commissioners to define the boundary line between the Township of Walpole, in the Niagara District, and the Township of Woodhouse, in the Talbot District.

[30th May, 1849.]

Commissioners appointed—their powers, duties, and remuneration.

12 VIC.—CAP. 102.

An Act to repeal the Act defining the boundary line between the fourth Concessions of the Townships of Montague and North Elmsley.

[30th May, 1849.]

Statutes 10 & 11 Vic., Cap. 58, repealed.

12 VIC.—CAP. 197.

An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens.

30th May, 1849.—Presented for Her Majesty's Assent, and reserved for the signification of Her Majesty's pleasure thereon. 6th October, 1849.—Assented by Her Majesty in Privy Council. 23rd November, 1849.—The Royal Assent signified by the Proclamation of His Excellency the Earl of ELGIN AND KINCARDINE, Governor General.

Preamble.

WHEREAS great inconvenience has been experienced in the practical operation of the Law granting to Aliens the Rights and Capacities of Natural-born British Subjects, and it is expedient to amend the same, as well for the purpose of remedying that inconvenience as with the view of affording greater security and facility in the possession and transfer of property: *Be it, &c.,* That a certain Act of the Parliament of this Province, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to make further provision regarding Aliens*, be and the same is hereby repealed; *Provided always*, that the repeal of the said Act shall not affect the Naturalization of any person Naturalized under it, or any Rights acquired by such person or by any other party by virtue of such Naturalization, which shall remain as valid, and such Rights shall be possessed and enjoyed by such person or party as if the said Act were not repealed.

Act 9 Vic. c. 107, repealed.

Proviso as to rights acquired under it.

Aliens resident before 10th Feb. 1841, and their descendants naturalized.

2.—*And be it, &c.,* That all Aliens who had their settled place of abode in either of the late Provinces of Lower or Upper Canada before the tenth day of February, in the year of our Lord one thousand eight hundred and forty-one, and who are still resident in this Province, shall be and are hereby admitted to and confirmed in all the Privileges of British birth, and shall be deemed, adjudged and taken to be and to have been Natural-born Subjects of Her Majesty, to all intents and purposes whatsoever, as if they and every of them had been born in this Province, and that the children or more remote descendants of every such person who may be dead, shall be

and are hereby admitted to the same Privileges which such parents or ancestors, if living, could claim under this Act: *Provided always, nevertheless*, that none of such persons (except females) who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by Law to administer the same, shall be entitled to the benefit of this Act unless they shall take such oath or affirmation before such Justice or other person as aforesaid.

Proviso as to
oath of
allegiance.

3.—*And be it, &c.*, That all Aliens who had their settled place of abode in this Province, on the tenth day of February, in the year of our Lord one thousand eight hundred and forty-eight, not being of either of the descriptions of persons before mentioned, who shall have resided or shall continue to reside therein or in some other part of Her Majesty's dominions, until they shall have been resident inhabitants thereof for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be and are hereby admitted to all the privileges of British birth, and shall be deemed, adjudged, and taken to be and to have been Natural-born subjects of Her Majesty to all intents and purposes whatsoever, as if they and every of them had been born in this Province: *Provided always, nevertheless*, that none of the persons described in this clause (except females), who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by law to administer the same, shall be entitled to the benefit of this Act, unless they shall take such oath or affirmation before such Justice of the Peace or other person as aforesaid.

As to Aliens
resident on
10th Feb.
1848.

Proviso as to
oath of
allegiance.

4.—*And be it, &c.*, That every Alien now residing in or who shall hereafter come to reside in any part of this Province, with intent to settle therein, who after a continued residence therein for a period of *seven* years or upwards, shall take the oaths or affirmations of residence and allegiance (or the oath or affirmation of residence only if a female) and procure the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as herein-after provided, shall thenceforth enjoy and may transmit all the rights and capacities which a Natural-born subject of Her Majesty can enjoy or transmit.

As to other
Aliens now
resident, or
hereafter
becoming so.

See 22 *W. c.*
1.

5.—*And be it, &c.*, That every such Alien shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the laws of this Province to

Oath of resi-
dence re-
quired in the
case last
mentioned.

affirm in judicial cases, shall make affirmation to the same effect, that is to say:—

OATH OF RESIDENCE.

“I, A. B., do swear (*or, being one of the persons allowed by Law to affirm in judicial cases, do affirm*) that I have resided seven years in this Province, with intent to settle therein, without having been during that time a stated resident in any foreign country. So help me God.”

† Oath of allegiance also required.

And every such Alien being a male shall also take and subscribe the following Oath of Allegiance, or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say:—

OATH OF ALLEGIANCE.

“I, A. B., do sincerely promise and swear (*or, being one of the persons allowed by Law to affirm in judicial cases, do affirm*) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Province of Canada dependent on and belonging to the said United Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So help me God.”

Before whom such oath may be taken.

Which oath or oaths, or affirmation or affirmations, shall be taken and subscribed by the said Alien, and shall be duly administered to him or her by or before any Justice of the Peace or any person having *ex officio* the power and authority of a Justice of the Peace within the City, Town, Parish, Village or Township in which the said Alien may reside, which said Justice of the Peace or person having such power as aforesaid, shall thereupon grant unto the said Alien a Certificate of Residence, setting forth that such Alien has taken and subscribed the said oath or oaths, or affirmation or affirmations, and (if the fact is so) that such Justice or person having such power as aforesaid has every reason to believe that such Alien had been so resident within the Province for a period of seven

† Certificate to be granted to an Alien.

years or upwards; that he or she is a person of good character, and that there exists to the knowledge of such Justice or person having such power as aforesaid, no reason why the said Alien should not be granted all the rights and capacities of a Natural-born British Subject.

6.—*And be it, &c.,* That it shall be lawful for the said Alien to present the Certificate of Residence from the said Justice of the Peace, or other person as aforesaid, to the Court of Quarter Sessions of the Peace, or the Recorder's Court of the *District*, County or City within the jurisdiction of which he shall reside in Upper Canada, or to the Circuit Court in and for the Circuit within which he shall reside in Lower Canada, in open Court, on the first day of some general sitting thereof, and it shall thereupon be the duty of such Court to cause the same to be openly read in such Court; and thereupon, if in the interval the facts mentioned in the said Certificate of Residence shall not be controverted, or any other valid objection made to the Naturalization of such Alien, it shall and may be lawful for such Court, on the last day of such General Sitting, to direct that such Certificate of Residence shall be filed of record in the said Court, and thereupon such Alien shall be thereby admitted and confirmed in all the rights and privileges of British birth, to all intents, constructions and purposes whatsoever, as if he or she had been born within this Province.

Certificates to be presented to and recorded in certain Courts, unless cause be shown to the contrary.

Effect of recording the same.

7.—*And be it, &c.,* That every such person shall be thenceforth entitled to receive a Certificate of Naturalization under the Seal of such Court and the Signature of the Clerk thereof, that he or she hath complied with the several requirements of this Act; which Certificate of Naturalization may be in the following form, or to the like effect, that is to say:—

Certificate of naturalization to be granted.

CANADA ——— Circuit ——— or ——— District of ——— Form.
or ——— County of ——— or ——— City of ———.
To wit: In the Court of ———

Whereas A. B., of, &c. (*describing him or her as formerly of such a place, in such a foreign Country, and now of such a place in this Province, and adding his or her addition*) hath complied with the several requirements of a certain Act of the Parliament of this Province passed in the ——— year of the reign of her Majesty Queen Victoria, intituled, “An Act (*insert the title of this Act*) and the Certificate thereof had been this day read in open Court, and thereupon, by order of the said Court, duly filed of record in the same, pursuant to the directions of the said Act; These are therefore to certify to all whom it may concern, that under and by virtue of the

said Act, the said A. B. hath obtained all the rights and capacities of a natural-born British subject within this Province, to have, hold, possess and enjoy the same within the limits thereof, upon, from and after the — day of — (*the day of filing the Certificate of Residence*) in the year of our Lord one thousand eight hundred and —, and this Certificate thereof is hereby granted to the said A. B., according to the form of the Statute in such case made and provided.

Given under my hand and the seal of the said Court, this — day — in the year of our Lord one thousand eight hundred and —.

Signature, C. D.,
Clerk of the Peace,
 (or Clerk of the Recorder's Court, or Clerk of the Circuit Court, as the case may be.)

What shall be evidence of such naturalization.

8.—*And be it, &c.*, That a copy of the said Certificate of Naturalization may, at the option of the party, be entered and registered in the Registry Office of any County or Division of a County within this Province, and a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever.

Aliens entitled under sec. 2 or 3, may obtain certificates, &c.

9.—*Provided always, &c.*, That it shall be lawful for any Alien entitled to be naturalized under the provisions of the second or of the third section of this Act, to take the oaths or affirmations of Residence and of Allegiance, and to obtain Certificates as aforesaid in the same manner as Aliens entitled to be naturalized under the provisions of the fourth section of this Act only, and with the same effect to all intents and purposes.

Wives of British subjects to be deemed British subjects.

10.—*And be it, &c.*, That any woman married or who shall be married to a natural-born British subject, or person naturalized under the authority of this or any other or former Act either of this Province or of either of the late Provinces of Lower or Upper Canada, shall be deemed and taken to be herself naturalized, and have all the rights and privileges of a Natural-born British subject.

Fees for duties performed under this Act.

11.—*And be it, &c.*, That the said Justice of the Peace or other persons as aforesaid, for administering the oath or oaths or affirmation or affirmations above mentioned, shall be entitled to recover and receive from the person to whom the same may be administered, the sum of one shilling and three pence, and no more; and that the Clerk of the Peace, or Clerk of the Recorder's Court, or Clerk of the Circuit Court shall, for reading and filing the Certificate of Residence, and preparing and

issuing the Certificate of Naturalization under the Seal of the Court, be entitled to recover and receive from such person the sum of one shilling and three pence, and no more; and that the Registrar of the County, shall, for recording the said last mentioned Certificate, be entitled to recover and receive from such person, the sum of one shilling and three pence, and a further sum of one shilling and three pence for every search and certified copy of the same, and no more.

12.—*And be it, &c.,* That from and after the passing of this Act, every Alien shall have the same capacity to take, hold, possess, enjoy, claim, recover, convey, devise, impart, and transmit Real Estate in all parts of this Province, as Natural-born or Naturalized subjects of her Majesty, in the same parts thereof respectively; *Provided always,* That nothing herein contained shall alter, impair or affect, or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever previous to or at the time of the passing of this Act.

Aliens may hold and transmit real estate.

Proviso as to vested rights

13.—*Provided always, &c.,* That the privileges of Naturalization imparted by this Act to the several classes of persons herein mentioned, are imparted to such persons respectively on the respective terms and conditions herein stated and set forth, and to be by such persons exercised and enjoyed within the limits of this Province, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland in the Tenth and Eleventh years of her Majesty's reign, and intituled, *An Act for the Naturalization of Aliens.*

On what terms and conditions the privileges hereby granted shall be exercised.

14.—*And be it, &c.,* That nothing in this Act contained shall be taken to repeal or in any manner affect or interfere with a certain Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled, *An Act to declare certain persons therein described Aliens, and to vest their estates in his Majesty,* or any proceedings had under the said Act.

Act of U. C. 54 Geo. III. c. 9, not to be affected.

15.—*And be it, &c.,* That any person who shall wilfully swear falsely or make any false affirmation under the authority of this Act, before any Justice of the Peace, or before any person having *ex officio* the power and authority of Justice of the Peace as aforesaid, shall be deemed guilty of wilful and corrupt perjury, and every such person shall, on conviction thereof, in addition to any other punishment authorized by law, forfeit all the privileges and advantages which he or she

False swearing or affirming to be perjury.

Additional punishment.

would otherwise by making such oath or affirmation have been entitled to under this Act, but the rights of others in respect to estates derived from or held under him or her, shall not thereby be prejudiced, excepting always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created.

12 VIC.—CAP. 200.

An Act to raise an Income of One Hundred Thousand Pounds out of the Public Lands of Canada, for Common School Education.

30th May, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

9th March, 1850.—Sanctioned by Her Majesty in Council.

27th May, 1850.—Her Majesty's Assent communicated by Message from his Excellency the Governor General to the Honorable the Legislative Council and Legislative Assembly, in Session.

Preamble.

All moneys arising from the sale of any public lands appropriated to form a School Fund, until they amount to a certain sum.

WHEREAS it is desirable that an annual sum of one hundred thousand pounds should be raised from the Public Lands of this Province, for the maintenance and support of Common Schools therein, and that so much of the first moneys to be raised by the sale of such Lands as shall be sufficient to create a capital which shall produce the said annual sum of one hundred thousand pounds at the rate of six per cent. per annum, should be set apart for that purpose; *Be it, &c.*, That all moneys that shall arise from the sale of any of the Public Lands of the Province, shall be set apart for the purpose of creating a capital which shall be sufficient to produce a clear sum of one hundred thousand pounds per annum, which said capital and the income to be derived therefrom shall form a Public Fund to be called the Common School Fund.

How such moneys shall be invested.

Stock of public Companies.

Provincial Debentures.

To what purposes only such moneys shall be applied.

2.—*And be it, &c.*, That the Capital of the said Fund shall from time to time be invested in the Debentures of any Public Company or Companies in the Province, which may have been incorporated by an Act of the Legislature, for the construction of Works of a public nature, and which said Company or Companies shall have subscribed their whole capital stock, paid up one half of such stock, and completed one half of such work or works, or in the Public Debentures of this Province, for the purpose of creating such annual income; and which said fund the income thereof shall not be alienated for any other purpose whatever, but shall be and remain a perpetual fund for the support of Common Schools, and the establishment of Township and Parish Libraries.

3.—*And be it, &c.*, That the Commissioner of Crown Lands under the direction of the Governor in Council, shall set apart and appropriate one million of acres of such Public Lands, in such part or parts of the Province as he may deem expedient, and dispose thereof on such terms and conditions as may by the Governor in Council be approved, and the money arising from the sale thereof shall be invested and applied towards creating the said Common School Fund: *Provided always*, That before any appropriation of the moneys arising from the sale of such Lands shall be made, all charges thereon, for the management or sale thereof, together with all Indian annuities charged upon and payable thereout, shall be first paid and satisfied.

One million of acres to be set apart for the purpose of forming the said Fund.

Proviso: certain charges to be first paid.

4.—*And be it, &c.*, That so soon as a net annual income of fifty thousand pounds shall be realized from the said School Fund, the public grant of money paid out of the Provincial Revenue for Common Schools, shall for ever cease to be made a charge on such revenue: *Provided always, &c.*, That in the mean time the interest arising from the said School Fund so to be created as aforesaid, shall be annually paid over to the Receiver General, and applied towards the payment of the yearly grant of fifty thousand pounds now appropriated for the support of the Common Schools: *Provided further*, that after the said annual sum of fifty thousand pounds shall have been taken off the Consolidated Revenue, if the income arising from the said School Fund shall from any cause whatever fall short of the annual sum of fifty thousand pounds, then it shall and may be lawful for the Receiver General of the Province, to pay out of the said Consolidated Revenue, such sum or sums of money as may from time to time be required to make up such deficiency, the same to be repaid so soon as the said income of the said School Fund shall exceed the said sum of fifty thousand pounds.

Present annual grant for Schools to cease when the said fund shall produce £50,000 a year.

Proviso: In the mean time the income of the said fund to be applied towards paying the said annual grant.

Proviso: If the said fund produce less than £50,000 in any year, the deficiency shall be made up, *pro tempore*.

13 & 14 VIC.—CAP. 13.

An Act to amend the Laws relating to the Public Works of this Province.

[10th August, 1850.]

16.—*And be it, &c.*, That whenever any sum of money has or shall have been appropriated by any Act of the Legislature of this Province, for the purpose of making or improving any Road or highway, the said Commissioners may in their discretion intrust the whole or any part of such appropriation to the Municipal Councils of the Municipalities through which

Commissioners may allow certain moneys to be expended by Municipal authorities.

such road or highway shall pass, to be appropriated by such Municipal Councils in the manner and for the purposes by law provided.

13 & 14 VIC.—CAP. 14.

An Act to extend the Acts for the formation of Companies for constructing Roads and other Works, to Companies formed for the purpose of acquiring Public Works of like nature.

[24th July, 1850.]

Preamble.

Act 12 Vic. c. 56, and 12 Vic. c. 84, extended to companies formed for purchasing public works under 12 Vic. c. 5.

Proviso: such companies not liable to certain provisions of the said Acts.

WHEREAS it is expedient to extend the benefit of the Acts hereinafter mentioned, to Companies to be formed for the purpose of acquiring and holding Public Works, or property under the provisions of the Act authorizing the transfer of such works or property to any such Company or to other parties therein designated: *Be it, &c.*, That, subject to the provisions of this Act, the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, and of the Act passed in the year last aforesaid and intituled, *An Act to authorize the formation of Joint Stock Companies in Lower Canada, for the construction of macadamized Roads, and of Bridges and other Works of like nature*, shall be and are hereby extended and shall apply to any Company to be formed for the purpose of acquiring for ever or for any term of years, any of the Public Roads, Harbours, Bridges or Public Buildings which may be lawfully transferred to any such Company under the Act passed in the year last aforesaid and intituled, *An Act for the better management of the Public Debt, Accounts, Revenue and Property*, or for the purpose of so acquiring and of improving or extending (or both) any such Public Work, as fully and effectually as if such purpose were expressly enumerated in the said Acts firstly and secondly mentioned respectively, among the purposes for which Companies may be formed under the same, the form of the instrument of association given in the schedules to the said Acts respectively, being varied so as to express that the Company is formed under one of the said Acts as amended by this Act, and for what purpose it is so formed: *Provided always*, that notwithstanding any thing in either of the said Acts, no Company to be formed under this Act for the purpose of acquiring any such Public Work as aforesaid (whether with or without the intention of extending the same) shall be liable to be opposed or prevented

from acquiring such work or from using and working the same, by any Municipal Council or other party, nor shall the Company be bound to make any report respecting such work to any Municipal authority, nor shall such Municipal authority or the Crown have the right of taking such work at the end of any term of years, but the provisions of the said Acts respectively, as to such opposition and prevention, or to such report, or to the taking of the works and property of the Company by any Municipal authority or by the Crown, shall apply only to the extension of the same beyond the local limits of the work when transferred to the Company; nor shall any of the provisions of the said Acts which shall be inconsistent with any lawful provision or condition in any Order in Council legally made under the Act thirdly mentioned, or with the rights transferred by the same, apply to the Company to which such Order in Council shall relate; but nothing herein contained shall be construed to prevent the reservation in any such Order of the power of taking any such work with or without any such extension, and by the Crown or any Municipal authority, on the terms and conditions therein to be expressed. *Provided always* that the thirty-fifth section of the Act first above cited, and thirty-seventh section of the Act secondly above cited shall respectively apply to Roads, Bridges and other Works transferred to any Company and to the Company to whom the same shall have been transferred in relation to such Roads, Bridges and Works.

Proviso: certain sections of the said Acts to apply.

2.—*And be it, &c.*, That the Tolls to be taken by any Company to be formed for the purposes aforesaid, on any such Public Work as aforesaid, not being a Road, shall not be regulated by the provisions of the Acts firstly and secondly mentioned, respectively, but the maximum Tolls to be levied on such Work by the Company shall be the maximum Tolls which can be lawfully levied on such work under the Act passed in the year last aforesaid and intituled, *An Act to make better provision with regard to the Tolls to be levied on the Public Provincial Works, and for other purposes relative to the said Works*, unless some lower maximum be fixed (as it may be) by Order in Council transferring the work to the Company or by some further order amending the same, made with the consent of the Company, and the Tolls to be levied on any Road, or on any extension of such other Public Work shall alone be regulated by the Acts firstly and secondly mentioned respectively in the absence of any special provision for lower rates in the Order in Council as aforesaid: *Provided always*, that no exemption from Toll on any Road or other Public Work

What shall be the maximum tolls to be taken by any such company.

12 Vic. c. 4.

Proviso as to exemptions from toll.

so transferred as aforesaid or on any extension thereof, shall be valid against any Company to be formed under this Act, except such only as can be validly claimed under the Act firstly or secondly mentioned (as the case may be) on works constructed under the authority thereof, unless such exemption from Toll be stipulated (as the case may be) in the Order in Council transferring such Public Work to the Company.

Provision in favor of parties residing within a certain distance of the limits of any city or incorporated town.

3.—*And be it, &c.* That it shall always be lawful for any party residing on the line of any Road transferred to any Company or Municipal Corporation under the provisions of this Act and of the Acts therein cited, and within half a mile of the limits of any City or Incorporated Town, to commute with such Company or Municipal Corporation for a certain sum per month to be paid by such party to the Company or Corporation for passing and re-passing through the Toll-gate between the residence of such party and the limits of such City or Town, and in default of agreement such commutation may be fixed by arbitration, each party appointing one arbitrator, and the two arbitrators a third, and the decision of any two of such arbitrators being final, and in default of commutation either by agreement or award of arbitration, such Company or Municipal Corporation shall be entitled to charge such party or his servants and others passing such gate with his carriages or vehicles, horses or cattle, such Tolls only as shall bear the same proportion to the Tolls per mile then charged by the Company or Municipal Corporation to other parties as the distance between the limits of the said City or Town and the residence of the party first aforesaid shall bear to one mile.

Order in Council transferring any public work may extend to certain matters.

4.—*And for avoiding doubts, Be it, &c.,* That the provisions and conditions of any Order in Council made under the Act thirdly above mentioned, may extend to the mode of adjusting and determining any difference which may arise between the Crown and any Company or Municipal Corporation as to their respective rights under the same, or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Company or Corporation to perform the conditions agreed upon, and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid; and that no enactment to be made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Company or Municipal Cor-

poration to which it shall relate : but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council as aforesaid.

5.—*Provided always, and be it, &c.*, firstly, That no Road, Bridge or Public Work shall be transferred to any Company without the reservation of power on the part of the Government to resume the same at any time after the expiration of a period which shall not exceed ten years, on conditions to be embodied in the Order in Council transferring it : and no such Road, Bridge or Public Work shall be leased to any Company for a longer period than ten years : *Provided always*, secondly, That no Road, Bridge or Public Work shall be sold or leased to any Company unless security, real or personal, shall have been given to the satisfaction of the Governor in Council, for an amount equal to ten per centum of the actual value of such Road, Bridge or Public Work in case of sale, or on the estimated value of such Work in case of lease, and such security shall be forfeited to the Crown in case of non-compliance with the conditions of such sale or lease : *Provided always*, thirdly, That in every instance one of the conditions of the sale or lease of any Road, Bridge or Public Work shall be, that such Work shall be kept in thorough repair, and that for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Commissioners of Public Works in this Province.

Proviso : certain powers to be reserved, &c.

Proviso : security to be taken.

Proviso : condition that the work shall be kept in complete repair.

13 & 14 VIC.—CAP. 18.

An Act for making one uniform provision respecting certain Official and other Oaths to be taken in this Province, and for other purposes therein mentioned.

[24th July, 1850.]

WHEREAS the Oaths required to be taken as a qualification for Office or for other temporal purposes, are in Upper Canada prescribed by an Act of the late Parliament of that part of the Province, passed in the third year of the reign of His late Majesty King William the Fourth, chaptered twelve, and intituled, *An Act to dispense with the necessity of taking certain oaths and making certain declarations in the cases therein mentioned*; and also to render it unnecessary to receive the *Sacrament of the Lord's Supper*, as a qualification for offices or for other temporal purposes; and whereas, with a view to making the law uniform in this respect in both sections of the

Preamble.

Act U. C. 3 Wm. IV. c. 12, cited.

The said Act repealed.

Province, it is expedient to repeal the said Act and to re-enact the provisions thereof, making them applicable to the whole Province: *Be it, &c.*, That the said recited Act shall be and the same is hereby repealed.

No other oath but those herein-after prescribed to be required of certain officers, &c.

2.—*And be it, &c.*, That from and after the passing of this Act, it shall not be necessary for any person appointed or to be appointed to any office in this Province, civil or military, or who is or may be Mayor or other officer or member of any Corporation therein, or for any person admitted, called or received, or hereafter to be admitted, called or received as a Barrister, Advocate, Notary Public, Attorney, Solicitor, or Proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say :—

The oath of Allegiance.

“I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (*or the reigning Sovereign for the time being,*) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province, dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary. So help me God.”

Oath for faithful performance of duties.

And also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as hath been heretofore required, or shall be hereafter required in any Act to be passed in that behalf.

The said form and no other to be that to be used in all cases in this Province.

3.—*And be it, &c.*, That the form hereinbefore set forth, and no other, shall be that of the Oath of Allegiance to be administered to and taken by all persons in this Province who, either of their own accord or in compliance with any lawful requirement made on them to take the Oath of Allegiance to Her Majesty, Her Heirs or Successors, or in obedience to the directions of any Statute either of the Imperial or Provincial Parliament therefor, shall be willing or desirous to take the same to Her Majesty, Her Heirs or Successors in this Province; and the power to tender and administer such Oath is hereby declared to be vested in all Magistrates and other Officers now

Who may administer it.

lawfully authorized or hereafter to be lawfully authorized, either by virtue of their Office or by Special Commission from the Crown for that purpose, to administer the Oath of Allegiance in this Province or any part thereof.

4.—*And be it, &c.*, That the said Oath of Allegiance hereinbefore set forth, together with the Oath of Office or Oath for the due exercise of any profession or calling, respectively, shall be and is hereby required to be taken within the same period and in the same manner, and subject to the like disabilities and penalties for the omission thereof, as is now by law provided with respect to the Oaths heretofore required to be taken in any case respectively.

Oath to be taken within the time now by law provided, set forth, &c.

5.—*And be it, &c.*, That all such persons as are or shall be allowed by law to affirm instead of swear in civil cases in this Province or any part thereof, shall be received to take an Affirmation of Allegiance in the like terms *mutatis mutandis*, as those herein and hereby prescribed for the said Oath of Allegiance, which Affirmation of Allegiance shall in all cases be received and accepted from such persons in lieu of such oath, and the taking of such Affirmation of Allegiance before the proper officer shall in the case of all such persons have the like effect to all intents and purposes whatsoever, as if the same had been the said Oath of Allegiance herein and hereby prescribed as aforesaid; and the power to tender and administer such affirmation to all such persons so entitled to take the same, is hereby declared to be vested in all Magistrates and other Officers now lawfully authorized or hereafter to be lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, to administer the Oath of Allegiance in this Province or any part thereof.

Affirmation instead of oath, in certain cases.

Its effect.

By whom it may be administered.

6.—*And be it, &c.*, That it shall not be necessary for any person for the purpose of qualifying himself to hold office in this Province or any part thereof, or for any other temporal purpose, privilege or advantage whatsoever within the same or any part thereof, to take or receive the Sacrament of the Lord's Supper according to the rites or usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid; and that no person shall hereafter within this Province or any part thereof, be subject to any penalty, forfeiture, incapacity, or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament.

No person need take the Sacrament as a qualification for any office.

No penalty incurred for not taking it.

13 & 14 VIC.—CAP. 31.

An Act to protect from injury Electro-Magnetic Telegraphs in this Province.

[10th August, 1850.]

Preamble.

Punishment
of parties
damaging
Telegraph
wires, &c.

Who shall
have juris-
diction.

How penal-
ties shall be
enforced, if
not paid.

WHEREAS it is necessary to protect from injury Electro-Magnetic Telegraph Lines in this Province: *Be it, &c.*, That if any person shall wilfully or maliciously cut, break, destroy, or injure any instrument, cap, wire, post, or other erection, used for or by any Line of Electro-Magnetic Telegraph now or hereafter to be in operation in this Province, under any Act in force therein, or that may be passed by the Legislature thereof, or in any manner by any means impede or obstruct the action and operation of such Line, such person shall be punishable by imprisonment for not less than five days nor more than thirty days, or by fine not exceeding ten pounds, or by both, according to the discretion of the Magistrate before whom the offence shall be charged: that the jurisdiction over all offences against this Act shall be in any Justice of the Peace in any Parish, Village, City, Town or County where the offence was committed, or in which the offender may be found, and the proceedings thereon shall be summary; that the fine imposed may, if not forthwith paid, be levied, with all costs of the prosecution by Warrant of Distress against and by sale of the goods and chattels of the offender, or such offender may, (in the discretion of the Magistrate) whether imprisonment be or be not part of the sentence, be imprisoned for a period not exceeding thirty days, in addition to and after the expiration of any other imprisonment making part of his sentence, unless such fine and all expenses incurred in the prosecution be sooner paid; and all such fines, when collected, shall belong to the party aggrieved by and complaining of the offence, and be paid over to such party.

13 & 14 VIC.—CAP. 54.

An Act to extend the right of Appeal in certain cases in Upper Canada.

[10th August, 1850.]

Preamble.

Appeal given
in every case
where the
matter is not
a crime.

WHEREAS it is expedient to extend the right of Appeal in certain cases in Upper Canada: *Be it, &c.*, That from and after the passing of this Act, any person, complainant or respondent, who shall think himself aggrieved by any conviction or decision before any one or more Justices of the Peace, Mayor or Police Magistrate in any matter cognizable by such

Justice of the Peace, Mayor or Police Magistrate, not being a crime, may appeal to the next Court of General Quarter Sessions of the Peace, which shall be holden not less than twelve days after the day of such conviction or decision, for the County wherein the cause or complaint shall have arisen; provided such person shall give to the other party, or leave with the convicting Justice for him a notice in writing of such appeal and of the cause and matter thereof within four days after such conviction or decision and eight days before such Sessions, and shall also either remain in custody until such Sessions, or enter into a recognizance with two sufficient securities before a Justice of the Peace, conditioned to appear at the said Sessions and try such appeal and to abide the judgment of the Court thereupon and to pay such costs as shall be by the Court awarded; and upon such notice being given and such recognizance being entered into, the Justice before whom the same shall be entered into shall liberate such person if in custody, and the Court at such Sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet, and in the case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction and to pay such costs as shall be awarded, and shall if necessary issue process for enforcing such judgment.

Party convicted to remain in custody, or give security.

See 16 Vic. c. 178, s. 26.

Court to hear and determine the matter.

2.—*And be it, &c.,* That whenever any appeal shall be made from the decision of any Justice or Justices, Mayor or Police Magistrate, the Court of Quarter Sessions, at the request of either appellant or respondent, shall empanel a Jury to try the matter on which such decision may have been made, and to administer to such Jury the following oath:

Jury to be empanelled on the request of either party to appeal.

“You do solemnly swear that you will well and truly try the matter of the complaint of C. D. against E. F. and a true verdict give according to the evidence: So help you God.”

And the Court on the finding of such Jury shall thereupon give such judgment as the circumstances of the case may require, not however to exceed the amount of penalty or period of imprisonment that might be imposed or awarded under any law giving cognizance to the said Justice or Justices, Mayor or Police Magistrate.

3.—*And be it, &c.,* That it shall and may be lawful for any appellant to abandon the said appeal by giving the opposite party notice of such intention in writing six days before the said Sessions, and thereupon it may be lawful for the convict-

Appeal may be abandoned.

Proceedings in such case.

ing Justice or Justices Mayor or Police Magistrate to tax the respondent's additional costs, if any, which shall be added to the original costs, and to proceed on the original conviction or decision in the same manner as if no appeal had been had thereon.

13 & 14 VIC.—CAP. 64.

An Act for correcting certain errors and omissions in the Act of the Parliament of this Province passed in the last Session thereof, intituled, "An Act to provide, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada," for amending certain of the provisions of the said Act, and making some further provisions for the better accomplishment of the object thereof.

[10th August, 1850.]

SCHEDULE B.

TOWNS.

1.—*Belleville*, To consist of all that part of this Province situate within the County of Hastings, and lying within the following limits, that is to say :

Commencing at the limits between Lots number six and seven in the first concession of the Township of Thurlow, at low water mark of the Bay of Quinté; thence, northerly, along the side line between lots number six and seven, to the second concession road; thence, westerly, along the said second concession line to the westerly boundary of Lot number one in the first Concession of Thurlow; thence, southerly, on the Town line between the Townships of Thurlow and Sidney, to the Bay of Quinté; thence, easterly, along the shore of the said Bay to the place of beginning; together with the harbour, islands and marshes in front of the said Town.

The said Town to be divided into four Wards, to be called respectively, "Sampson Ward," "Ketcheson Ward," "Baldwin Ward," and "Coleman Ward," and to comprise the following portions of the said Town respectively, that is to say :

The said "Sampson Ward" to comprise all that part of the said Town which lies to the south of Bridge-street to the limits between Lots numbers six and seven in the first Concession of the said Township of Thurlow, on the east side of the River Moira.

The said "Ketcheson Ward" to comprise all that part of the said Town which lies north of Bridge-street and west of Pinnacle-street, on the east side of the River Moira.

The said "Baldwin Ward" to comprise all that part of the said Town which lies north of Bridge-street and on the east side of Pinnacle-street, to the said River Moira, and thence, along the said River, to the limits of the said Town.

And the said "Coleman Ward" to comprise all that part of the said Town which lies on the west side of the said River Moira.

SCHEDULES.

Substituted for parts of Schedule B of 12 Vic., Cap. 81.

5.—*Cobourg*, To consist of all that part of this Province situate within the County of Northumberland, and lying within the following limits, that is to say :

Commencing on the shore of Lake Ontario, at the south-east angle of Lot number fourteen in Concession B, in the Township of Hamilton ; thence, north, sixteen degrees west, to the centre of the first concession of the said Township ; thence, south, seventy-four degrees west, to the centre of Lot number twenty-one in the said first concession ; thence, south, sixteen degrees east, to the distance of half a mile from the point at which the said line intersects the margin of the water on the shore of the said Lake ; thence, westerly, through the waters of the said Lake, following the direction of the curvatures, and keeping always at the distance of half a mile from the margin of the water, to a point where a line drawn southerly from the south-east angle of the said Lot number fourteen in Concession B, meets the said last mentioned line ; thence, northerly, in the direction of the said line so drawn from the said Concession of the said last mentioned Lot, to the place of beginning.

The said Town to be divided into three Wards, to be called respectively, "South Ward," "East Ward," and "West Ward."

The "South Ward" to comprise all that portion of the said Town which lies south of King-street.

The said "East Ward" to comprise all that portion of the said Town which lies east of the centre of the street between Lots numbers sixteen and seventeen and north of King-street ; and

The "West Ward" to comprise all that portion of the said Town which lies west of the centre of the street between Lots numbers sixteen and seventeen and north of King-street.

12.—*Picton*, To consist of all that part of this Province situate within the County of Prince Edward, and lying within the following limits, that is to say :

Commencing on the south side of Lot letter A, at a distance of fifty chains from the front of the Lot ; thence, across the said Lot, and across Lot number one, north sixty-four degrees forty-five minutes east, to a post planted on the limit between Lots numbers one and two in the first Concession north of the Carrying-Place ; thence, at a right angle across Lots numbers two, three and four in the said Concession ; thence, along the north-east side of Lot number four, to the Bay ; thence, directly across the Bay to the line between Lots numbers seventeen and eighteen in the first Concession east of the Carrying-Place ; thence, along the water's edge, to the limit between Lots numbers nineteen and twenty in the said Concession ; thence, along the limit between the said Lots in a south-easterly direction, twelve chains ; thence, at right angles across the easterly half of Lot number twenty ; thence, in a south-easterly direction along the centre of the said Lot number twenty, nine chains, more or less, to the east side of John-street ; thence, along the east side of John-street, thirty chains ; thence, north eighty degrees twenty minutes west, fourteen chains, forty links, more or less, to the east side of Church-street ; thence, south, twelve degrees forty-five minutes east, one chain, sixty-five links ; thence, south, forty-nine degrees fifteen minutes west, fifteen chains, fifty links ; thence, south, thirty-two degrees west, to the north-eastern limit of Lot number one in the Concession south-east of the Carrying-Place ; thence, north, eighty degrees twenty minutes west along the north-east side line of the said lot number one to the front of the Lot ; thence, north, eighty-seven degrees forty-five minutes west, sixty chains, more or less, to a post on the limit between Lots numbers twenty-one and twenty-two in the third Concession, military tract ; thence, along the westerly side line of the said Lot number twenty-two, twenty-four chains, seventy-four links, more or less, to Lot letter A aforesaid ; thence, in a direct line, to the place of beginning,—including the Harbour in the above mentioned boundaries.

13.—*Port Hope*, To consist of all that part of this Province situate within the County of Durham, and lying within the following limits, that is to say :

Composed of Lots numbers four, five, six, seven and eight, and the east half of Lot number nine, in the first Concession of the Township of Hope, and the broken fronts of the said Lots and half Lot, together with all those parts of Lots num-

bers four and five, in the second Concession of the said Township of Hope, with the road allowance between the said first and second Concessions, and butted and bounded as follows, that is to say :

Commencing in rear of the first Concession, at the north-east angle of Lot number four in the first Concession ; thence, in a northerly direction, across the said allowance for road, to the south-east corner of Lot number four, in the second Concession ; thence, northerly, along the easterly side of the said Lot number four, in the second Concession, fifteen chains ; thence, westerly, in a course parallel with the front of the said second Concession, twenty-five chains ; thence, southerly, in a course parallel with the said east line of Lot number four, in the second Concession aforesaid, sixteen chains, more or less, to the rear line of the first Concession ; thence, easterly, along the rear of the first Concession, to the place of beginning ; and also, the water in front thereof to the distance of one quarter of a mile into Lake Ontario.

The said Town to be divided into three Wards, to be called respectively : First Ward, Second Ward and Third Ward, and which Wards are to comprise the following portions of the said Town respectively, that is to say :

The said First Ward to comprise all that part of the said Town which lies east of the River.

The said Second Ward to comprise all that part of the said Town which lies west of the River and south of Walton-street, continued westerly by Ridout-street and the front or Lake Shore Road to the western limit of the said Town.

And the said Third Ward to comprise all that part of the said Town which lies west of the River and north of Walton-street, continued westerly by Ridout-street and the said front or Lake Shore Road to the western limit of the said Town.

14.—*Prescott*, To consist of all that part of this Province situate within the County of Grenville, and lying within the following limits, that is to say :

Commencing at the south-eastern angle of the Township of Augusta ; thence, north, twenty-four degrees, west, to the rear of the first Concession of the said Township ; thence, south-westerly, along the Concession line to the limit between the east and west half of Lot number five, in the first Concession of Augusta aforesaid ; thence, south, twenty-four degrees, east, to the River Saint Lawrence ; thence, north-easterly, along the water's edge, to the south-eastern angle of the said Township, to the place of beginning, and shall take in so much of the

waters of the River Saint Lawrence and the land under the wharves and buildings built in such waters as lie within three hundred yards in every direction of the edge in front of the present limits of the said Town of Prescott.

The said Town of Prescott to be divided into three Wards, in the following manner, that is to say :

All that part of the Town on the south side of the Queen's highway, shall compose the South Ward.

All that part of the Town on the east side of the Street called Centre Street, leading from the Queen's highway to the rear line of the said Town, shall compose the East Ward.

And all that part of the Town on the west side of the aforesaid Street called Centre Street, shall compose the West Ward.

15.—*Saint Catharines*, To consist of all that part of this Province situate within the County of Lincoln, and lying within the following limits, that is to say :

Commencing at the north-east angle of Lot number fifteen, in the fifth Concession of the Township of Grantham; thence, south-westerly, along the road as now laid out, one hundred and fifty-five chains, more or less, crossing the Welland Canal at Ranney's Mills, to the western limit of the Welland Canal Lands; thence, southerly and easterly, along the Welland Canal boundary until it intersects the allowance for road between the sixth and seventh Concessions; thence south, sixty-five degrees west, along the rear of the sixth Concession, to the limit between Lots numbers nineteen and twenty; thence, south, crossing the main road to Hamilton, five chains; thence, north, sixty degrees east, more or less, until it intersects the allowance for road between Lots numbers fifteen and fourteen; and thence north, along the said allowance, more or less to the place of beginning.

The said Town to be divided into three Wards, to be called respectively, Saint Thomas Ward, Saint George's Ward and Saint Paul's Ward, and to comprise the following portions of the said Town respectively, that is to say :

The said Saint Thomas Ward to comprise all that part of the said Town which lies within the following limits :

Commencing at the south-westerly angle of the said Town; thence, north, until it intersects the allowance for road between the sixth and seventh Concessions of Grantham; thence, north, sixty-five degrees, east, along the said allowance to the Welland Canal; thence, down the said Canal, to the northern and western limit of the Welland Canal Lands; thence, easterly, across

the said Canal until it intersects the main road at the north-western boundary of the said Town; thence, north-easterly, along the said boundary until it intersects Ontario Street; thence, up the said street, until it intersects St. Paul Street; thence, southerly, on the said Street until it intersects the Concession line between the sixth and seventh Concessions; thence, north-easterly, on the said line until it crosses the Welland Canal; thence, up the said Canal until it intersects the eastern boundary of the said Town; thence, south, on the said boundary until it intersects the south-easterly angle of the said Town; thence, north-easterly, to the place of beginning.

The said Saint George's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the corner of Saint Paul and Ontario Streets; thence, down the boundary of Ontario Street to the north-westerly boundary line of the said Town; thence, north-easterly, on the said boundary, to the north-east angle of the said Town; thence, south, until it intersects St. Paul Street; thence, up the said Street, to the place of beginning.

And the said Saint Paul's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the intersection of Saint Paul Street with the eastern boundary of the said Town; thence, south, until it intersects the boundary of Saint Thomas Ward on the Welland Canal; thence, down the said Canal until it intersects the line between the sixth and seventh Concessions; thence, north, up the said Concession line until it intersects Saint Paul Street; thence, westerly, up the said Street, to the place of beginning.

13 & 14 VIC.—CAP. 69.

An Act to enable Collectors of Local Taxes in Upper Canada, for the several years between one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine, (both inclusive,) to recover Taxes accrued in such years respectively, and remaining due.

[10th August, 1850.]

WHEREAS there are considerable amounts of Local Taxes, Rates and Assessments accrued in Upper Canada, between the years one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine, both inclusive, still remaining due and unpaid; and whereas difficulties have arisen and doubts exist as to whether the several Collectors appointed

Preamble.

Collectors in office may collect arrears of former years.

for such years respectively, can now legally enforce payment of such arrears, and it is but fair and just that the parties assessed and in arrear should be required to pay the Taxes due by them: *Be it, &c.*, That it shall and may be lawful for any Collector or Collectors in office during the present or any future year in the Town, Township or place in and for which he or they may be such Collector or Collectors respectively, to demand, collect, levy, sue for, recover and receive, in the same way and by such means as any Collector or Collectors may then lawfully use for collecting, levying and recovering. Local Taxes in Upper Canada, all such arrears of Taxes, Rates and Assessments as became due between the years one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine (both years inclusive), and which now remain due and unpaid.

Notice to the party in default, and mode of proceeding for enforcing payment, &c.

2.—*And be it, &c.*, That no person shall be sued for recovery of any such arrears until the same shall have been first demanded by the Collector or person specially appointed as aforesaid in the usual way, and four days (exclusive of the day of demand), shall have elapsed without payment being made; and the Collector shall be the plaintiff in the suit or proceeding, which proceeding shall be by and before a Judge of the Division Court, or two Justices of the Peace, by summons and distress warrant in the usual way, or before the Judge of the County Court, who shall have power respectively to examine the parties themselves, if they or he deem it necessary, and their witnesses on oath, and to receive in evidence all such matters as they or he see fit to receive, in order to enable them to arrive at a just and equitable decision in the matter; and they or he shall have power to award to either party such reasonable costs as they or he may think proper, and also to allow the defendant to set off any money, produce, work or other matter heretofore paid, or delivered to, or performed by him for the Collector suing, or to or for the Collector who acted at the time when he became in arrear, if it shall appear to the said Justices or Judge, at the hearing of the case, that any such payment, delivery or performance was intended to be in satisfaction, either wholly or in part, of the arrears claimed, and the said Justices or Judge, as the case may be, shall decide according to the legal or equitable merits of each case; any law or usage to the contrary thereof in any wise notwithstanding.

Taxes so collected to be paid over to the proper treasurer.

3.—*Provided always, and be it, &c.*, That such Collectors as aforesaid shall pay over the sums by them collected as aforesaid, to the Treasurer or other officer entitled to demand and receive the same, first deducting their lawful charges and

allowances; and in default thereof shall be subject to such penalties or legal proceedings as are provided by the laws of Upper Canada, with regard to Collectors failing to account for or pay over Taxes due in the localities for which they are appointed.

13. & 14 VIC.—CAP. 71.

An Act to enable the Provincial Government to dispose of claims against certain Companies for Loans made to them under the authority of certain Acts of the Parliament of Upper Canada.

[10th August, 1850.]

WHEREAS the Government of this Province, or that of the Province of Upper Canada, hath at divers times, under the authority of Acts of the Legislature of Upper Canada, advanced or paid sums of money to or for Companies incorporated for the purpose of constructing canals, rail-roads, harbors, roads and other works and improvements of a public nature in Upper Canada, and such sums or part thereof, or the interest thereon or part thereof, remain due to the Province, and it is expedient to authorize the Provincial Government to dispose of the claim of the Province for any such sum as aforesaid, to any party who may be willing to purchase the same, and upon such terms as may be agreed upon between the Government and such party: *Be it, &c.*, That it shall be lawful for the Governor in Council, by any Order in Council to be made for that purpose, to assign, transfer and convey to any Municipal Corporation, Incorporated Company or other party, who may agree to purchase the same, the claim of the Province for any sum of money due from any Company or party, and arising out of any such advance or payment as is mentioned in the preamble to this Act, on such conditions and with such clauses, provisions and limitations as shall be mentioned in such Order in Council, including the undertaking of any third party to become surety for the due payment of the consideration money, and the faithful performance of any conditions therein mentioned; and any such Order in Council shall transfer to and vest in the party therein named for that purpose, all the rights of the Crown in and to the debt or claim thereby intended to be transferred, and shall have effect according to the tenor thereof, as if the clauses, conditions and provisions thereof were inserted in this Act: and a copy of the *Canada Gazette* containing any such Order in Council, or any copy of such Order certified by the Provincial Secretary, shall be evidence

Preamble.

Governor in Council may assign claims against companies, and how.

Evidence of such transfer.

Municipal
corporations
empowered
to purchase.

thereof, and the consent and agreement of all the parties named therein shall be presumed, unless disputed by such parties, and if disputed, shall be proved by any copy of such Order in Council on which the consent of such parties shall be written and attested by such signature or seal, or both, as would be sufficient to make any deed or agreement the deed or agreement of such parties: and any Municipal Corporation in or through whose Municipality any such public work or improvement as is mentioned in the preamble to this Act, may lie or pass, is hereby empowered to purchase any claim of the Province upon the same, and to raise by assessment the sum necessary to pay the consideration agreed upon.

13 & 14 VIC.—CAP. 74.

An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to make provision for the protection of the Indians in Upper Canada, who, in their intercourse with the other inhabitants thereof, are exposed to be imposed upon by the designing and unprincipled, as well as to provide more summary and effectual means for the protection of such Indians in the unmolested possession and enjoyment of the lands and other property in their use or occupation: *Be it, &c.,* That no purchase or contract for the sale of land in Upper Canada, which may be made of or with the Indians or any of them, shall be valid unless made under the authority and with the consent of her Majesty, her heirs or successors, attested by an instrument under the Great Seal of the Province, or under the Privy Seal of the Governor thereof for the time being.

Purchases of
land from
Indians not
valid with-
out the
consent of
the Crown.

Such pur-
chase with-
out consent
to be a mis-
demeanor.

2.—*And be it, &c.,* That if any person, without such authority and consent, shall in any manner or form, or upon any terms whatsoever, purchase or lease any lands within Upper Canada of or from the said Indians, or any of them, or make any contract with such Indians, or any of them, for or concerning the sale of any lands therein, or shall in any manner give, sell, demise, convey or otherwise dispose of any such lands, or any interest therein, or offer so to do, or shall enter on, or take possession of, or settle on any such lands, by pretext or colour of any right or interest in the same, in consequence of any such purchase or contract made or to be made with such Indians, or any of them, unless with such authority and consent

as aforesaid, every such person shall, in every such case, be deemed guilty of a misdemeanor, and shall, on conviction thereof before any Court of competent jurisdiction, forfeit and pay to her Majesty, her heirs or successors, the sum of two hundred pounds, and be further punished by fine and imprisonment, at the discretion of the Court. Penalty.

3.—*And be it, &c.*, That no person shall take any confession of judgment or warrant of attorney from any Indian within Upper Canada, or by means thereof, or otherwise howsoever obtain any judgment for any debt or pretended debt, or upon any bond, bill, note, promise or other contract whatsoever, unless such Indian shall be seized in fee simple in his own sole right of real estate in Upper Canada, the title to which shall be derived directly or through others by Letters Patent from the Crown, and shall be assessed in respect of such real estate to the amount of twenty-five pounds or upwards. Confessions of judgment, &c., not to be taken from Indians.
Exception.
See 20 Vic. c. 26, sec. 1.

4.—*And be it, &c.*, That no taxes shall be levied or assessed upon any Indian or any person inter-married with any Indian for or in respect of any of the said Indian lands, nor shall be taxes or assessments whatsoever be levied or imposed upon any Indian or any person inter-married with any Indian, so long as he, she or they shall reside on Indian lands not ceded to the Crown, or which having been so ceded may have been again set apart by the Crown for the occupation of Indians. Taxes and assessments not to be levied on Indians.

5.—*And be it, &c.*, That notwithstanding any thing in this Act contained, Indians and persons inter-married with Indians, residing upon any such Indian lands and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, the Assistant Superintendent General, or by any Subordinate Superintendent of Indian Affairs, who may for the time being be charged with the subordinate superintendence of such Indians and persons inter-married with Indians as aforesaid, or by any such Commissioner or Commissioners, to perform labor on the public roads laid out or used in or through such Indian lands, such labour to be performed under the sole control of the said Superintendents or Commissioners, or of any or either of them, who shall have power to direct when, where, how and in what manner the said labour shall be applied, and to what extent the same shall be imposed upon Indians or persons inter-married with Indians, who shall be resident upon any of the said lands, and that the said Superintendents and Commissioners, and every of them, shall have the like power to enforce the performance of all such labour by imprisonment. As to performance of statute labour by Indians.

Proviso: as to amount of labour.

or otherwise as may now be done by any power or authority under any law, rule or regulation in force in this Province for the non-performance of Statute labour: *Provided always, nevertheless,* That the labour to be so required of any such Indian or person inter-married with an Indian, shall not exceed in amount or extent what shall or may be required of other inhabitants of Upper Canada, under the general laws requiring and regulating such labour and the performance thereof.

No spirituous liquors to be furnished to Indians.

6.—*And be it, &c.,* That it shall not be lawful for any person to sell, barter, exchange, or give to any Indian, man, woman, or child, within this Province, any kind of spirituous liquors, in any manner or way, or to cause or procure the same to be done for any purpose whatsoever; and that if any person shall so sell, barter, exchange, or give any such spirituous liquors to any Indian, man, woman or child, as aforesaid, or shall cause the same to be done, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined at the discretion of the Court, not exceeding five pounds for every such offence, and shall forfeit also the sum of one pound five shillings for every such offence, to be recovered as in an action of debt with costs in any Court of competent jurisdiction, by any one who will sue for the same, one moiety of every such last mentioned pecuniary penalty or forfeiture to go to the informer or prosecutor, and the other moiety thereof to be paid to her Majesty, her heirs or successors, or to some officer acting under her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct: *Provided always, nevertheless,* That no such penalty shall be incurred by the furnishing to any Indian, in case of sickness, any spirituous liquor, either by a medical man or under the direction of any such medical man.

Penalty.

How recovered and appropriated.

Proviso.

Pawns not to be taken for liquor.

7.—*And be it, &c.,* That no pawn taken of any Indian for any spirituous liquors, shall be retained by the person to whom such pawn shall be delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who may have deposited the same, before any Court of competent jurisdiction.

Recital.

8.—And whereas certain tribes of Indians in Upper Canada receive annuities and presents, which annuities, or portions thereof, are expended for and applied to the common use and benefit of the said Tribes, more especially for the encouragement of agriculture and other civilizing pursuits among them,

although the articles so required or purchased out of such annuities, may be and often necessarily are, in the possession or control of some particular Indian or Indians of such Tribes, and it is important with a view to the progress and welfare of such Tribes, that the property thus acquired or purchased should be protected from seizure, distress or sale, under or by virtue of any process whatsoever: *Be it, &c.*, That none of such presents, or of any property purchased or acquired with or by means of such annuities, or any part thereof, or otherwise howsoever, and in the possession of any of the Tribes, or any of the Indians of such Tribes, shall be liable to be taken, seized or distrained for any matter or cause whatsoever.

Indian presents not to be purchased from them.

9.—*And be it, &c.*, That the Commissioners appointed under the Acts of Parliament in the next section of this Act mentioned, or either of them, and the different Superintendents of the Indian Department, either now in office or who may hereafter be appointed to either of such offices shall, by virtue of their office and appointment, be Justices of the Peace within the County, or United Counties, within which, for the time being, they or any or either of them, may be resident or employed as such Commissioners or Superintendents, without any other qualification; any law to the contrary notwithstanding.

Commissioners and Superintendents of Indians to be Justices of the Peace

10.—*And whereas for the purpose of affording better protection to the Indians in the unmolested possession and enjoyment of their lands, it is expedient to give more summary and effectual powers to the Commissioners appointed, or who may be appointed, by virtue of the Act of the Province of Upper Canada, passed in the second year of her Majesty's reign, chaptered fifteen, and intituled, An Act for the protection of the lands of the Crown in this Province from trespass and injury, and also by virtue of the Act of this Province, passed in the twelfth year of her Majesty's reign, chaptered nine, and intituled, An Act to explain and amend an Act of the Parliament of the late Province of Upper Canada, passed in the second year of her Majesty's reign, intituled, "An Act for the protection of the lands of the Crown in this Province from trespass and injury, and to make further provision for that purpose," to enable them more efficiently to protect the said lands from trespass and injury, and to punish all persons trespassing upon or doing damage thereto: Be it, &c.*, That it shall not be lawful for any person or persons other than Indians and those who may be inter-married with Indians, to settle, reside upon or occupy any lands or roads or allowances for roads running through any lands belonging to or occupied by

Recital.

U. C. 2 Vic. c. 15.

Canada. 12 Vic. c. 9.

None but Indians or those inter-married with them to reside on Indian lands.

Provision for
the removal
of persons
contraven-
ing this
section.

any portion or Tribe of Indians within Upper Canada, and that all leases, contracts and agreements made or to be made, purporting to have been or to be made, by any Indians, or by any person or persons inter-married with any Indian or Indians whereby any person or persons other than Indians shall be permitted to reside upon such lands, shall be absolutely void; and if any person or persons other than Indians, or those who may be inter-married with Indians as aforesaid, shall without the license of the said Commissioners or any or either of them, (which license, however, the said Commissioners, or any of them, may at any time revoke,) settle, reside upon or occupy any such lands, roads or allowances for roads, it shall be the duty of the Commissioners, or any or either of them, on complaint made to them or any of them, and on due proof of the fact of such settlement, residence or occupation, to issue their or his warrant, under their hands and seals, or his hand and seal, directed to the Sheriff of the County, or Union of Counties in which the said lands may lie, or if the said lands may not be situated within any County or Union of Counties, then such warrant shall be directed to any literate person who may be willing to act in the premises, commanding him forthwith to remove all such persons settling, residing upon or occupying such lands, with his, her or their families, from the said lands or roads or allowances for roads, and it shall be the duty of such Sheriff, or other person accordingly, to remove such person or persons, and for that purpose he shall have and possess the same powers as in the execution of criminal process: *Provided always, &c.*, That the provisions in this and the two following sections of this Act contained, shall extend and be construed to extend to such Indian lands only as the Governor of this Province for the time being shall from time to time, by Proclamation under the Great Seal thereof, think fit to declare and make subject to the same, and so long only as such Proclamation shall remain unrevoked and in full force.

Proviso: to
what lands
this section
shall extend.

Proceedings
if persons so
removed
return to
such lands.

11.—*And be it, &c.*, That so often as any person or persons after being or having been removed as aforesaid, shall return to settle, reside upon or occupy any of the said lands or roads or allowances for roads, the said Commissioners or any or either of them, upon their or his view, or upon proof by any witness or witnesses on oath, to be made or taken before the Commissioners or any or either of them, and upon their or his being satisfied that the said person or persons has or have returned to, settled, resided upon or occupied any of the said lands or roads or allowances for roads, then and in every such case, such Commissioner or Commissioners shall direct and send

their or his warrant, under their hands and seals or his hand and seal, to the Sheriff of the County or Union of Counties within which such lands may lie, or to any literate person there, or if the said lands shall not be situated within any County or Union of Counties, then to any literate person, commanding him forthwith to arrest such person or persons, and to commit him, her or them to the Common Gaol of the said County or Union of Counties in which the said lands may lie, or to the Common Gaol of the nearest County or United Counties to the said lands, if the said lands shall not be within any County or United Counties, there to remain for such time as shall be ordered by the Commissioners or by any or either of them, not exceeding thirty days; and such Sheriff or other person shall accordingly arrest the said party or parties, and deliver him, her or them, to the Gaoler or Sheriff of the said County or United Counties as aforesaid, who are hereby required to receive such person or persons, and the said person or persons to confine and imprison in the said Common Gaol for the term aforesaid, there to remain without bail and without being entitled to the liberties of the limits of the said gaol; and such Commissioners or any of them shall cause the judgment or order against such person or persons to be drawn up, and no such judgment shall be liable to be removed by *Certiorari* or otherwise, or to be appealed from, but shall be deemed and taken to be final.

Arrest of
such person.

No *certiorari*
allowed.

12.—*And be it, &c.,* That if any person without the license in writing of the Commissioners, or of any or either of them, shall hereafter trespass upon any of the said lands or roads or allowances for roads, by cutting any trees, saplings, shrubs, underwood or timber thereon, or by carrying away or removing any of the trees, saplings, shrubs, underwood or timber therefrom, or by removing any of the stone or soil of the said lands, roads or allowances for roads, each person so trespassing shall for every tree he shall cut, carry away or remove, forfeit and pay the sum of five pounds, and for cutting, carrying or removing any of the saplings, shrubs, underwood or timber, under the value of five shillings, the sum of one pound, but if over the value of five shillings, then the sum of five pounds, and for removing any of the stone or soil aforesaid, the sum of five pounds, such fine to be imposed and recovered by the said Commissioners or any or either of them, by distress and sale of the goods and chattels of the party or parties fined, or the said Commissioners may, without proceeding by distress and sale as aforesaid, upon the non-payment of the said fine, order the party or parties to be imprisoned in the Com-

Punishment
of persons
cutting tim-
ber on and
doing dam-
age to Indian
lands.

Penalties.

Imprison-
ment if the
penalty
cannot be
levied.

Application
of penalties.

mon Gaol as aforesaid, for a period not exceeding thirty days, when the fine shall not exceed five pounds, or for a period not exceeding three calendar months, when the fine shall exceed the sum of five pounds; and upon the return of any warrant for distress or sale, if the amount thereof have not been made, or if any part of it may remain unpaid, the said Commissioners or any or either of them, may commit the party or parties who may be in default upon such warrant or warrants to the Common Gaol as aforesaid, for a period not exceeding thirty days, if the sum claimed by the said Commissioners upon the said warrant do not exceed five pounds, or for a time not exceeding three calendar months, if the sum claimed do exceed five pounds; all which fines shall be paid to her Majesty, her heirs or successors, or to some officer acting under her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct.

Recital.

Provision
where the
name of any
person to be
proceeded
against
under this
Act cannot
be ascertain-
ed

13.—And whereas great difficulty has been experienced by the said Commissioners in carrying into effect the several Acts relating to Indian lands, by reason of persons giving false names or concealing their names, and it is expedient that the Commissioners should be enabled to proceed without difficulty in this respect: *And be it, &c.*, That in all orders, writs, warrants, summonses and proceedings whatsoever to be made, issued or taken by the Commissioners or any or either of them under this or any other Act whatsoever, it shall only be necessary for the Commissioners or such of them as may be acting, to insert or express the name or names of the person or persons summoned, arrested, distrained upon, imprisoned or otherwise proceeded against in any of such orders, writs, warrants, summonses or proceedings, when the name or names of such person or persons shall be truly given to or known by the said Commissioners, or such of them as may be acting in that behalf, and if the name or names be not truly given to or known by the Commissioners, then the Commissioners or such of them as shall be acting in that behalf, shall be at liberty to name or describe the person or persons by any part of the name or names of such person or persons which may be given to or known by them, or such of them as may be so acting; but if no part of the name or names be given to or known by the said Commissioners, or such of them as shall be so acting, they or such of them as shall be acting may describe the person or persons proceeded against in any manner by which he, she or they may be capable of being identified; And it is hereby declared that all such proceedings as aforesaid, contain-

ing the name or description, or purporting to give the name or description of any such person as aforesaid, according to this Act, shall *prima facie* be deemed to be sufficient; anything to the contrary notwithstanding.

14.—*And be it, &c.,* That all Sheriffs, Gaolers and Peace Officers, to whom any such process shall be so directed by such Commissioners or any or either of them, are hereby required to obey the same, and all other Officers upon reasonable requisition to be aiding and assisting in the execution thereof.

Sheriff, &c.,
to obey
process.

13 & 14 VIC.—CAP. 75.

An Act for the protection of Mill-owners in Upper Canada.

[24th July, 1850.]

WHEREAS it often happens that persons purchase Crown Lands and Clergy Reserves in Upper Canada from the Crown which, at the time of the purchase, and of the issuing of the patent therefor, were in the whole or in part overflowed by the waters of some mill stream, in consequence of the erection and continuation of Mill Dams thereon: And whereas it often happens that such persons, at the time they purchase such lands, are well aware of their being so overflowed, and have in consequence thereof obtained a reduction or allowance in the price paid for the same, but, nevertheless, obtain Patents for the whole of such Lots, and afterwards bring actions against the proprietors or occupiers of the Mills for the use of which such Dams have been erected: For remedy thereof, *Be it, &c.,* That when in any action hereafter to be brought against the proprietor and occupier of any Mill, for the overflowing of, or injury to any Land, caused by the erection or continuation of any Dam for the purposes of such Mill, it shall appear that such overflowing or other injury was caused by the erection or continuation of a Dam which was built before the purchase by, and grant thereof to the Grantee of the Crown of such Land, and that such purchaser obtained a reduction in the price of such Land, or was otherwise indemnified in consequence of its being so overflowed or otherwise injured, then, the Jury on the trial of any such cause may take such facts into their consideration, and if they think it just and equitable, may, in consequence thereof, find a verdict for the Defendant in any suit so to be brought.

Preamble.

Grantee of
Crown not to
recover
damages for
injury caused
to lands
by dam
erected before
patent issued in
certain cases.

2.—*And be it, &c.,* That in any such action, it shall and may be lawful for the Defendant to plead the general issue, and under such plea, on entering a note of this Act in the

Defendant
may plead
the general
issue, &c.

margin thereof, to avail himself of this Act and of the matters of defence herein given.

Extent of
Act.

3.—*And be it, &c.,* That this Act shall extend to Upper Canada only.

13 & 14 VIC.—CAP. 77.

An Act to permit Lands in Upper Canada to be conveyed to Trustees for Burial Places.

[10th August, 1850.]

Preamble.

WHEREAS in many parts of Upper Canada the inhabitants are desirous of securing the title to land requisite for a burying ground, which shall not belong exclusively to any of the various denominations of Christians, and that the same should be taken and held by Trustees acting in a corporate capacity, and having perpetual succession : *Be it, &c.,* That whenever any of the inhabitants of any township or locality in Upper Canada, to the number of ten or more, shall desire to take a conveyance of land for the purpose mentioned in the Preamble to this Act, it shall and may be lawful for them to appoint Trustees, to whom, and their successors to be appointed in such manner as shall be specified in the deed conveying the same to them, the land requisite for the purposes aforesaid may be conveyed ; and such Trustees, and their successors in perpetual succession, by the name expressed in such deed, shall be capable of taking, holding, and possessing such land, in trust to and for the uses and purposes limited in such deed, and of commencing and maintaining any action or proceeding in law or equity for the protection thereof, and of their right in and to the same : *Provided*, there shall not be held in trust under any such conveyance for the purposes aforesaid, more than ten acres of land for the inhabitants of any one township or locality.

Land for
such bury-
ing grounds
may be
vested in
trustees.

Proviso; ex-
tent limited.

13 & 14 VIC.—CAP. 78.

An Act to authorize the Trustees holding Land upon which Churches are erected in Upper Canada to mortgage the same to pay off the Debts due by such Churches.

[10th August, 1850.]

Preamble.

WHEREAS it frequently happens that the Trustees who hold lands in a corporate capacity for the site of a Church, Meeting House or Chapel for some of the religious denominations in Upper Canada under various public and private Acts of Par-

liament, contract debts for the building, repairing and improving such Churches, Meeting Houses or Chapels, and may be desirous of mortgaging the land they may so hold to secure the payment of such debts: *Be it, &c.*, That whenever any debt shall have been or may hereafter be contracted, for the building, repairing, extending or improving of any Church, Meeting House or Chapel, erected or to be erected upon lands held by Trustees for the benefit of any Religious Society in Upper Canada which by law may take land for such purpose, or for the purchase of the land on which the same is erected, the Trustees for the time being, or a majority of them, may from time to time, as may be necessary, obtain by way of loan or loans from any person or party whomsoever, such sum of money as shall be sufficient to discharge such debts or any part thereof, and may secure the repayment of such loan or loans and interest by mortgage upon the lands, Churches, Meeting Houses or Chapels which may be respectively held by them as aforesaid, upon such terms as may be agreed upon: *Provided always*, that the said Trustees or a majority of them may give such mortgage directly to any party to whom such debts may be owing.

Trustees holding such lands may mortgage the same for certain purposes.

Proviso.

13 & 14 VIC.—CAP. 84.

An Act to establish a Survey in front of the ninth Concession of Cornwall, (from Lot Number Twenty-two, westerly, to the limit of the Township,) as the governing line of the said Concession of Cornwall.

[24th July, 1850.]

Line mentioned in Title established.

13 & 14 VIC.—CAP. 85.

An Act to determine the mode in which the Side Lines in certain Concessions in the Township of Edwardsburgh shall be run.

[24th July, 1850.]

WHEREAS, &c.: *Be it, &c.*, That for and notwithstanding any thing in the thirty-ninth section, or in any other part of the Act passed in the twelfth year of her Majesty's reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors, and the Survey of Lands in this Province*, or in any other Act or Law, the side line between numbers eleven and twelve, in the fifth and sixth concessions of the said Township of Edwardsburgh, and the side line between any lots in the said

How certain side lines in 5th and 6th concessions shall be run; notwithstanding 12 Vic. c. 35.

concessions west of number eleven, run and shall be run from the corner post in the front of such lots to the rear thereof, in such direction as that if any such line were prolonged, it would strike the post or front boundary between the lots bearing the same numbers in the next concession towards the rear of the township.

And in 7th
concession.

2.—*And be it, &c.*, That in the seventh concession of the said Township the course of the side line between the East half and the West half of Lot number seven, and of the side lines of all the Lots to the West thereof, is and shall be North thirty-one degrees twenty-two minutes West, astronomically.

And in 8th
concession.

3.—*And be it, &c.*, That the Eastern commons in the said eighth concession is and shall be fourteen chains and twenty-five links in width, and that all the land to the West thereof be divided into the number of Lots, Commons and Roads, shewn in the original survey; and that the side lines be run parallel to the Eastern boundary of the said Township; and any line run in accordance with this Act shall be deemed to be and to have been since the survey of the said Township the true side line of the lots through which it shall run: subject nevertheless to the provisions of the hereinbefore recited Act, relative to the breadth of Lots and the mode of ascertaining such breadth when the original posts or monuments cannot be found, and as to all matters not provided for by this Act.

13 & 14 VIC.—CAP. 86.

An Act to amend and explain the Act relative to the Side Lines in the Township of Osgoode.

[24th July, 1850.]

Act 10 & 11
Vic. c. 54, to
apply to
certain con-
cessions
only.

WHEREAS, &c.: *Be it, &c.*, That the Act passed in the session held in the tenth and eleventh years of her Majesty's reign, and intituled, *An Act to declare the mode in which the Side Lines of the Township of Osgoode, in the County of Carleton, shall be run*, shall not apply, and shall be construed as having been intended by the Legislature not to apply to the first, second or third Concessions of the said Township of Osgoode, or to the Broken Front of the said Township, but only to the remaining Concessions thereof.

How side
lines in the
first conces-
sion shall be
run.

2.—*Be it, &c.*, That the Side Lines of the lots in the Broken Front of the said Township prolonged, are and shall be held to be the Side Lines of the corresponding lots in the first Concession, and shall be drawn from the Corner Posts in the

said Broken Front, parallel to the mean course of the governing line of the Township, from the front of the said Broken Front to the rear of the first Concession.

13 & 14 VIC.—CAP. 88.

An Act to confirm a certain Survey of the Township of Ameliasburgh in Upper Canada.

[10th August, 1850.]

The Survey of S. S. Wilmot confirmed.

13 & 14 VIC.—CAP. 89.

An Act to enable the Commissioners for defining the Boundary Line between the Townships of Walpole and Woodhouse, to perform the duty assigned to them by the Act in that behalf provided.

[10th August, 1850.]

Commissioners under 12 Vic. cap. 101, empowered to perform duties assigned to them within a limited time.

13 & 14 VIC.—CAP. 90.

An Act to authorize Aaron Silverthorn and Newman Silverthorn, their heirs or assigns, to erect a Dam across the River Thames.

[10th August, 1850.]

Powers, Conditions, &c.

14 & 15 VIC.—CAP. 4.

An Act to amend the Act concerning Land Surveyors.

[2nd August, 1851.]

WHEREAS it is expedient to amend the Act hereinafter mentioned in certain particulars: *Be it, &c.*, That so much of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province*, as may be inconsistent with this Act, shall be and is hereby repealed.

Preamble.

Inconsistent enactments of 12 Vic. c. 35, repealed.

2.—*And be it, &c.*, That for and notwithstanding anything in the said Act, there shall be two Boards of Examiners for the examination of Candidates for admission to practice as Land Surveyors, one to consist of the Commissioner of Crown

Two Boards of Examiners appointed; of whom to consist.

See 19 & 20
Vic. c. 13.

Present
Board
dissolved.

Quorum.

Secretary.

Meetings.

Powers and
duties.

Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Quebec for the examination of Candidates for admission to practise as Land Surveyors in Lower Canada, and the other to consist of the said Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Toronto, for the examination of Candidates for admission to practise as Land Surveyors in Upper Canada; and the present Board of Examiners shall be dissolved; and any three of the members of either of the said Boards shall form a quorum; and each of the said Boards or a majority thereof shall appoint a Secretary; and the said Boards shall meet at the places hereinbefore mentioned respectively on the days appointed in and by the said Act for the meeting of the Board therein mentioned; and each of the said Boards and the Members and Secretary thereof shall, as regards the examination of Candidates for admission to practise in that section of the Province in and for which such Board shall sit, and as regards Surveyors practising therein, have the same authority, powers and duties as are by the said Act vested in the Board therein mentioned and its Secretary, and shall be bound by the same rules in the exercise and performance thereof.

Notice to be
given by ap-
plicants for
admission,
&c.

3.—*And be it, &c.,* That for and notwithstanding anything in the said Act, every person desiring to be examined before either of the said Boards shall give due notice thereof in writing to the Secretary of such Board at least one month previous to the meeting thereof, and shall then pay to the Secretary the fee of Five Shillings in the said Act mentioned; and each applicant obtaining a certificate shall pay to the Secretary the fee of Ten Shillings in the said Act mentioned.

Fee for
receiving
certificate.

Application.

4.—*And be it, &c.,* That for and notwithstanding anything in the said Act, the sum payable by each applicant receiving a certificate shall be Five Pounds Currency, and not Two Pounds Ten Shillings Currency, as in the said Act mentioned; and the said sum shall be applied and divided in the manner and to the purposes to which the said sum of Two Pounds Ten Shillings is by the said Act directed to be applied and divided.

Oath of alle-
giance where
to be depo-
sited.

5.—*And be it, &c.,* That for and notwithstanding anything in the said Act, the oath of allegiance and of office to be taken by persons admitted as Surveyors, shall, if taken in Lower Canada, be deposited in the office of the Prothonotary of the Superior Court in the *District* of Quebec; and if taken in Upper Canada, in the Registry Office in the County of York.

6.—*And be it &c.*, That no instrument in writing under which any applicant for admission to practise as a Surveyor shall claim to have served with some practising Surveyor the period of three years, one year, or six months mentioned in the third section of the said amended Act, shall avail to authorise the admission of such applicant, unless such instrument if executed before witnesses, or a notarial copy thereof, if it be a notarial instrument, shall have been transmitted to the Secretary of Board before whom the applicant is to be examined, within two months next after the date thereof, if it be executed after the passing of this Act, or before the first day of January now next if it shall have been executed before the passing of this Act; and the said Secretary is hereby required to acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and carefully to keep the same in his office.

Indentures or articles of applicants must be filed with the Secretary within a certain time.

8.—*And be it, &c.*, That the Standard English Measures of Length imported under the requirements of the Act hereby amended, shall hereafter be deposited with the Secretary of the Board of Examiners at Toronto, and the Standard French Measures of Length imported under the said Act, and the copy of the said Standard English Measures of Length now in the Office of the Commissioner of Crown Lands at Montreal (which copy shall be hereafter used as a standard for the purposes of the said Act) shall be deposited with the Secretary of the Board of Examiners at the City of Quebec, and the said Secretaries respectively, under such instructions as they shall receive from time to time from their respective Boards, shall and examine, test and stamp Standard Measures of Length for the Surveyors bringing the same for examination as the Commissioner of Crown Lands may do under the Act aforesaid and with the same effect, and for each measure so examined and stamped such Secretary may demand and receive Two Shillings and Six Pence Currency.

14 & 15 VIC.—CAP. 5.

An Act to make certain alterations in the Territorial Divisions of Upper Canada.

[2nd August, 1851.]

WHEREAS it is expedient to make certain alterations in the present Territorial Divisions of Upper Canada, for Judicial, Municipal, and other purposes : *Be it, &c.*, That from and after the time when this Act shall come into force, Upper Canada shall be divided into the Counties mentioned in the Schedule to

Preamble.

Upper Canada divided into Counties as

for Schedule A. this Act marked A., which Counties shall respectively include and consist of the several Townships mentioned in the said Schedule as forming such County, and the Cities, Towns, and Villages, and the Liberties of the said several Cities therein: *Provided always*, that for Municipal purposes, the Cities of Toronto, Hamilton, and Kingston, and the Liberties thereof, shall not form part of the Counties of York, Wentworth, and Frontenac within the limits whereof they are situate, but shall be Counties by themselves; and that for the purpose of representation in the Provincial Parliament, neither the said Cities nor the Liberties thereof, nor the Towns of London, Niagara, Brockville, Bytown, or Cornwall respectively, shall form part of the Counties of York, Wentworth, Frontenac, Middlesex, Lincoln, Leeds, Carleton, or Stormont within the limits whereof they are situate.

Counties in Schedule B, united for certain purposes.

2.—*And be it, &c.*, That the Counties mentioned in the Schedule to this Act marked B., shall, for all Judicial and Municipal purposes, and for all other purposes whatsoever, except for purposes of representation in the Provincial Parliament be formed into Unions, as in the said Schedule set forth; and each of such Unions, under the name of “The United Counties of ——— and ———,” (naming them) shall for all such purposes, (except as before excepted) have in common between them all such Courts, Offices and Institutions, as by the fifth section of the Act passed in the twelfth year of Her Majesty’s Reign, intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties, for Judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require*, are to be had in common by Counties united under the said Act; *Provided always*, that any County which now has, or any two or more Counties which now have between them a Registry Office for the Registration of Titles, shall continue to have the same as before the passing of this Act, save and except that each County which is now entitled to a Representative in Parliament, shall also have a separate Registry Office for the Registration of Titles, and Registers shall be appointed accordingly.

Certain provisions of 12 Vic. cap. 78, to apply to Counties united under this Act.

3.—*And be it, &c.*, That all the provisions contained in the ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, thirty-fifth and thirty-seventh sections of the said last recited Act, (by which sections provision is made for and with respect to the dissolution of the Unions of Counties, and matters connected there-

with, shall, in so far as may be consistent with the other provisions of this Act, apply to the Unions of Counties formed under this Act, as fully as those authorised by the Act above recited.

5.—*And be it, &c.,* That so soon as the Court House and Gaol in any one of the said Counties shall have been erected and completed at the County Town of such County according to the provisions of the fifteenth section of the Act last above cited, and the other provisions of the said fifteenth section shall have been complied with by such County, it shall and may be lawful for the Governor in Council to issue a proclamation dissolving the Union between such County and the County or Counties with which it is united according to the Schedule B. of this Act; and if it be so united with more than one County then the remaining Counties shall form a Union of Counties under this Act, until they be separated in the manner by the said Act provided; and all provisions of the said Act or of this Act applicable to Unions of Counties in general shall be applicable to such Union, to all intents and purposes, as if such remaining Counties had been set forth as such in the said Schedule B. of this Act.

Dissolution
of Unions of
Counties
provided for.

6.—*And whereas* in some cases Townships or other tracts of land or localities will, when this Act comes into effect, be detached from the County to which they now respectively belong and attached to another, and it is necessary to make provision for such cases: *Be it, &c.,* That, (except in those cases with regard to which it is otherwise provided by this Act) the Court House and the land thereunto attached, with all the appurtenances and dependencies thereof, and all the personal property of the County from which any Township or other tract shall be detached under this Act, and all taxes due to such County before this Act shall come into effect, and all other moneys due to such County, shall, after this Act shall come into effect, be the property of the County in which such Court House shall be situate, which, notwithstanding any change in its limits or name, shall be held to be the same County and the same Municipal Corporation with that of which such Court House was the County Court House before this Act came into effect, and shall be entitled to claim and recover and enforce all debts, effects and obligations belonging to or contracted in favor of such last mentioned County, and shall be liable for all debts or obligations due from or contracted by the same, and all By-laws of the same shall remain in force in such County as limited by this Act until repealed or altered by competent authority; and no suit, action, or proceeding

Recital.

To what
County pro-
perty shall
belong, &c.,
when a tract
is detached
from a Coun-
ty under this
Act.

shall abate or be discontinued in consequence of such change of limits or of name, but may be continued and completed by or against such County, with its new limits and by its new name, as effectively as if such limits or name had not been changed: *Provided always*, that any County or Union of Counties under this Act, shall, after this Act shall come into force, be held to be the same Municipality, and the same Corporation with the County or Union of Counties which, before the coming into force of this Act, had the same Court House, notwithstanding any change of limits or of name affected by this Act, and notwithstanding that it may after the coming into force of this Act be a Union of several Counties instead of being a single County as theretofore.

As to debts due by any County from which a tract is detached.

7.—*Provided always, And be it, &c.*, That the County from which any Township, tract of land, or locality shall be detached under this Act, shall, with reference to any County of which such Township, tract, or locality is thereafter to form a part, be known as the “Elder County,” and the County of which such Township, tract, or locality so detached is thereafter to form a part, shall with reference to such Elder County be known as the “Younger County,” and if a County be divided into two or more Counties, then that in which the present Court House is situate shall be the Elder County; and it shall be lawful for such Elder and Younger Counties, “or the Unions of which they respectively form part,” to enter into an agreement for the adjustment and settlement of the proportion (if any) of any debt due by such Elder County, “or the Union of which it forms part,” which it may be just that such Younger County, “or Union of Counties,” should take upon itself, “in respect of such accession of Territory,” with the time or times of payment thereof; and every such agreement shall both in law and equity be binding upon such Elder and Younger Counties, “or Unions of Counties respectively:” *Provided also*, that if the said Counties “or Unions of Counties,” shall not enter into such agreement, the proportion of such debt (if any) to be assumed by such Younger County, “or Union of Counties,” shall be settled by arbitration in like manner as similar questions arising between a Senior and Junior County are directed to be settled in default of agreement, *by the fifteenth section of the Act above cited*; and the portion (if any) of such debt so agreed upon or settled, shall be a debt due by the Younger “County or Union of Counties,” to the Elder County “or Union of Counties,” and shall bear legal interest from the day this Act shall come into effect, and its payment shall be provided for by the Municipal Council of

Proviso in case of non-agreement.

See 22 Vic. c. 99, s. 336.

such Younger County "or Union of Counties," in like manner as is or shall be required by law with respect to other debts due by such Municipal Council, (in common with others,) and in default thereof it may be sued for and recovered as any of such other debts.

8.—*Provided always, And be it, &c.,* That the Townships of Waterloo, Wilmot, Wellesley, and that portion of the present Township of Woolwich not included in the new Township of Pilkington, shall be responsible for their share of the debt incurred or to be incurred for the construction of the Guelph and Dundas road, in proportion to their respective assessments for the year of our Lord one thousand eight hundred and forty eight, relatively to the corresponding assessments of the other portions of the late District of Wellington, for that year, and shall have a lien on the road for the amount of any payments they may be called on to make in consequence of such liability, but any question affecting the other debts of the late *District* of Wellington, or the present County of Waterloo, or the new County of Wellington, shall be settled in the manner provided by this Act and the said last recited Act, in relation to similar cases.

Special provision as to Guelph and Dundas Road debt.

11.—*And be it, &c.,—*

That the limits of all the Townships lying on the River St. Lawrence, Lake Ontario, the River Niagara, Lake Erie, the River Detroit, Lake St. Clair, the River St. Clair, or Lake Huron, shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each Township respectively; and such Townships shall also include all the Islands not herein otherwise provided for, the whole or the greater part of which shall be comprised within the said outlines so prolonged:

As to limits of Townships on certain lakes and rivers.

That the limits of the Townships lying on the River Ottawa shall in like manner extend to the middle of the main channel thereof, but such Townships shall also include all the Islands not herein otherwise provided for, the whole or the greater part of which shall be comprised within the said outlines so prolonged; excepting always the Islands in front of the Seigniory of La Petite Nation and the Grand Calumet, and Grand and Allumettes Islands, which belong to Lower Canada, the middle of the main channel between the last named Islands, and the southerly bank of the Ottawa River being the boundary between Upper and Lower Canada:

In Counties on the Ottawa.

That the limits of the Townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis

In the County of Glengarry.

and to the middle of the main channel of the River St. Lawrence, but shall also include all the Islands not herein otherwise provided for, the whole or the greater part of which shall be comprised within the outlines of the said Townships so prolonged.

On the Bay
of Quinté, &c.

And that the limits of the Townships on the Bay of Quinté the River Trent and its Lakes, Lake Simcoe, the River Severn, the River Rideau and its Lakes, the River Thames, the Grand River, and any other rivers, lakes, and bays not hereinafter mentioned, shall in like manner extend to the middle of the said lakes and bays, and to the middle of the main channel of the said rivers respectively, but shall also include all the Islands not herein otherwise provided for, the whole or the greater part of which shall be comprised within the outlines of the said Townships so prolonged :

Exceptions.

Excepting always any Islands or parts of Islands which are Townships by themselves, or which have been expressly included in other Townships in the original surveys and plans thereof, remaining of record in the office of the Commissioner of Crown Lands, and which shall form part of such Townships.

New
Townships.

14.—*And be it, &c.,* That the several tracts of land mentioned in the Schedule to this Act marked D, shall respectively form new Townships by the names assigned to them respectively in the said Schedule : *Provided always,* that in all cases where any portion of a Township is detached therefrom by this Act, the remainder shall thereafter form a Township by the name which the whole Township bore, unless it be otherwise provided, and shall by that name hold all the property and rights, and be liable for all the debts and claims upon such Township as theretofore limited ; and when any Township is by this Act divided into two or more Townships, that portion thereof in which the Municipal Council thereof held its sittings immediately before this Act came into force shall be deemed the elder Township, and shall hold all property of and all taxes and other debts due to the former Township, and be liable for all debts and liabilities of the same, and notwithstanding its change of name or limits, shall be held to be the same Corporation with such former Township, and the other new Township shall be deemed the younger Township ; and it shall be lawful for such elder and younger Townships to agree together as to the share which such younger Township ought to have or bear of or in the property or liabilities of the former Township, and if they cannot agree, then it shall be settled by arbitration in the same manner as like questions arising between an elder and a younger County, and the agreement or award

Proviso as to
debts, prop-
erty, &c.

shall have a like effect; and where two Townships shall be united by this Act, the property and liabilities of each of them shall become the property and liabilities of the new Township which shall be deemed to be one and the same Corporation with each of them, notwithstanding the change of limits or limits: and at the first election of Councillors in any "such" new Township, the "Warden of the County in which such new Township shall be situate, shall appoint a fit and proper person" to be the Returning Officer, and shall appoint the place of Election and the time and place of the first meeting of the Town Council.

15.—*And be it, &c.,* That the portions of Townships mentioned in the Schedule to this Act marked E, shall be detached from the Townships of which they have hitherto formed part, and shall form part of the Townships to which they are respectively mentioned in the said Schedule as being attached.

Tracts detached from Townships.

SCHEDULE A.

COUNTIES.

1. The County of Glengarry shall consist of the Townships of Charlottenburgh, Kenyon, Lochiel, Lancaster and the Indian reservation adjoining the said Townships of Charlottenburgh and Kenyon.
2. The County of Stormont shall consist of the Townships of Finch, Osnabrock, Roxborough and Cornwall.
3. The County of Prescott shall consist of the Townships of Alfred, Caledonia, Hawkesbury East, Hawkesbury West, Longueuil, Plantagenet North, and Plantagenet South.
4. The County of Russell shall consist of the Townships of Clarence, Cumberland, Cambridge and Russell.
5. The County of Carleton shall consist of the Townships of Fitzroy, Goulburn, Gower North, Gloucester, Huntley, March, Marlborough, Osgood, Tarbolton and Nepean.
6. The County of Renfrew shall consist of the Townships of Admaston, Blithfield, Bagot, Broomley, Horton, McNab, Pembroke, Ross, Stafford, Westmeath, and all that tract of land lying between the Western Boundaries of the Townships of Lavant, Blithfield, Admaston, Bromley, Stafford and Pembroke and the Ottawa River, and a line drawn parallel to the general course of the said Boundaries of the said Townships from the western corner of the Township of Clarendon to the Ottawa River.
7. The County of Lanark shall consist of the Townships of

Montague, Elmsley North, Burgess North, Sherbrooke North, Sherbrooke South, Bathurst, Drummond, Beckwith, Dalhousie, Lanark, Ramsay, Lavant, Darling and Pakenham.

8. The County of Dundas shall consist of the Townships of Mountain, Matilda, Winchester and Williamsburgh.

9. The County of Greenville shall consist of the Townships of Edwardsburgh, Wolford, Gower South, Oxford and Augusta.

10. The County of Leeds shall consist of the Townships of North Crosby, South Crosby, Burgess, Bastard, Elmsely, Kitley, front of Leeds and Lansdown, rear of Leeds and Lansdown, Escott, Yonge and Elizabethtown.

11. The County of Frontenac shall consist of the Townships of Wolfe Island, (including Simcoe Island, Garden Island, Horse Shoe Island and Mud Island,) Clarendon, Barrie, Palmerston, Kennebec, Olden, Oso, Hinchinbrooke, Bedford, Portland, Loughborough, Storrington, Pittsburgh, Howe Island and Kingston.

12. The County of Addington shall consist of the Townships of Camden, Ernestown, Kalader, Anglesea, Sheffield and Amherst Island.

12. The County of Lennox shall consist of the Townships of Adolphustown, Fredericksburg, Fredericksburg additional, and Richmond.

14. The County of Prince Edward shall consist of the Townships of Athol, Ameliasburg, Hillier, Hallowell, Marysburg and Sophiasburg.

15. The County of Hastings shall consist of the Townships of Lake, Tudor, Grimsthorpe, Marmora, Madoc, Elzevir, Rawdon, Huntingdon, Hungerford, Sidney, Thurlow and Tyendinaga.

16. The County of Northumberland shall consist of the Townships of Murray, Brighton, Cramahe, Haldimand, Hamiltion, Seymour, Percy, Alnwick and Monaghan South.

17. The County of Durham shall consist of the Townships of Hope, Clarke, Darlington, Cavan, Manvers and Cartwright.

18. The County of Peterborough shall consist of the Townships of Belmont, Methuen, Burleigh, Dummer, Harvey, Douro, Smith, Monaghan North, Asphodel, Ennismore and Otonabee.

19. The County of Victoria shall consist of the Townships of Mariposa, Ops, Emily, Eldon, Fenelon, Bexley, Verulam and Somerville.

20. The County of Simcoe shall consist of the Townships of Orillia, Matchedash, Tay, Medonte, Oro, Vespra, Flos, Tiny, Sunnidale, Nottawasaga, Gwillimbury West, Essa, Tecumseth, Adjala, Tossorontio, Mulmur, Mono and Innisfil, together with the tract of land bounded on the East by the line between the late Home and Newcastle Districts prolonged to French River, on the West by Lake Huron, on the North by French River, and on the South by the River Severn and the Township of Rama, and the Islands in Lakes Simcoe and Huron, lying wholly, or for the most part, opposite to the said County of Simcoe, or any part thereof and contiguous thereto.

21. The County of York shall consist of the Townships of Etobicoke, Vaughan, Markham, Scarborough, York, King, Whitechurch, Gwillimbury East and Gwillimbury North.

22. The County of Peel shall consist of the Townships of Albion, Caledon, Chinguacousy, Toronto and Toronto Gore.

23. The County of Ontario shall consist of the Townships of Whitby, Pickering, Uxbridge, Reach, Brock, Georgina, Scott, Thora, Mara, Seugog and Rama.

24. The County of Halton shall consist of the Townships of Esquenes, Trafalgar, Nassagaweya and Nelson.

25. The County of Waterloo shall consist of the Townships of North Dumfries, Waterloo, Wilmot, Woolwich, and Wellesley.

26. The County of Brant shall consist of the Townships of Brantford, Onondaga, Tuscarora, Oakland, South Dumfries and Burford, and the Village of Paris.

27. The County of Wellington shall consist of the Townships of Erin, Puslinch, Guelph, Nichol, Garafraxa, Eramosa, Peel, Maryborough, Minto, Arthur, Luther, Amaranth and Pilkington.

28. The County of Grey shall consist of the Townships of Derby, Sydenham, Saint Vincent, Sullivan, Holland, Euphrasia, Collingwood, Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton and Melancthon, together with that portion of the Peninsular Tract of Land known as the Indian Reserve, and situated between a line drawn northward from the north-east angle of Arran and the north-west angle of Derby, until it strikes Colpoy's Bay on the east side of the Indian Village, and the waters of the Georgian Bay, together with the Islands contiguous thereto.

29. The County of Bruce shall consist of the Townships of Huron, Kinloss, Culross, Carrick, Kincardine, Greenock,

Brant, Bruce, Saugeen, Elderslie and Arran, together with all that portion of the Peninsular Tract of Land known as the Indian Reserve, and not included in the County of Grey, together with all the Islands in Lake Huron and the Georgian Bay contiguous thereto.

30. The County of Huron shall consist of the Townships of Hay, Stephen, McGillivray, Biddulph, Usborne, Howick, McKillop, Grey, Morris, Turnberry, Ashfield. Wawanosh, Colborne, Hullett, Tuckersmith, Stanley and Goderich.

31. The County of Perth shall consist of the Townships of Blanchard, Hibbert, Fullarton, Downie, including the Gore of Downie, Logan, Ellice, Easthope North and Easthope South, Elma, Wallace and Mornington.

32. The County of Lambton shall consist of the Townships of Bosanquet, Plympton, Warwick, Sarnia, Moore, Enniskillen, Brooke, Sombra, including Walpoole Islands, St. Ann's Island, and the other Islands at the mouth of the River St. Clair, Dawn and Euphemia.

33. The County of Kent shall consist of the Townships of Orford, Howard, Camden, Chatham, Harwich, Dover East, Dover West, Raleigh, Tilbury East, Romney and Zone.

34. The County of Essex shall consist of the Townships of Mersea, Gosfield, Colchester, Rochester, Maidstone, Malden, Anderdon, Tilbury West and Sandwich.

35. The County of Elgin shall consist of the Townships of Aldborough, Dunwich, Southwold, Yarmouth, Malahide, Bayham and South Dorchester.

36. The County of Middlesex shall consist of the Townships of Mosa, Ekfrid, Carradoc, Metcalfe, Adelaide, Williams, Lobo, Nissouri West, North Dorchester, Delaware, Wesminster, and London.

37. The County of Norfolk shall consist of the Townships of Houghton, Middleton, Charlotteville, Windham, Townsend, Woodhouse, Walsingham, including Long Point.

38. The County of Oxford shall consist of the Townships of Zorra East, Zorra West, Oxford North, Oxford East, Oxford West, Dereham, Norwich, Blenheim, Blandford, Nissouri East, and the Village of Woodstock.

39. The County of Haldimand shall consist of the Townships of Walpole, Oneida, Seneca, North Cayuga, South Cayuga, Canborough, Rainham, Dunn, Moulton and Sherbrooke.

40. The County of Welland shall consist of the Townships

of Pelham, Thorold, Stamford, Crowland, Willoughby, Wainfleet, Humberstone and Bertie.

41. The County of Lincoln shall consist of the Townships of Grimsby, Clinton, Louth, Grantham, Caistor, Gainsborough and Niagara.

42. The County of Wentworth shall consist of the Townships of Beverley, Flamborough East, Flamborough West, Ancaster, Glandford, Binbrook, Saltfleet and Barton.

SCHEDULE B.

COUNTIES UNITED FOR MUNICIPAL, JUDICIAL AND OTHER PURPOSES.

1. Essex and Lambton.
2. Huron, Bruce and Perth.
3. Middlesex and Elgin.
4. Lincoln and Welland.
5. Wentworth, Halton and Brant.
6. Wellington, Waterloo and Grey.
7. York, Ontario and Peel.
8. Northumberland and Durham.
9. Peterborough and Victoria.
10. Frontenac, Lennox and Addington.
11. Leeds and Grenville.
12. Lanark and Renfrew.
13. Prescott and Russell.
14. Stormont, Dundas and Glengarry.

See Proclamations.

SCHEDULE C.

COUNTIES UNITED FOR THE PURPOSE OF REPRESENTATION.

1. Kent and Lambton,—as the County of Kent.
2. Huron, Perth and Bruce,—as the County of Huron.
3. Middlesex and Elgin,—as the County of Middlesex.
4. Wentworth and Brant,—as the County of Wentworth.
5. Waterloo, Wellington and Grey,—as the County of Waterloo.
6. Peterborough and Victoria,—as the County of Peterborough.
7. Lennox and Addington,—as the County of Lennox and Addington.
8. Lanark and Renfrew,—as the County of Lanark.

See 16 Vic.
c. 152.

SCHEDULE D.

NEW TOWNSHIPS.

I. Howe Island, which shall consist of the Island of that name.

2. East Nissouri, which shall include and consist of that part of the present Township of Nissouri, which lies eastward of the line dividing the seventh concession thereof from the eighth.

3. West Nissouri, which shall include and consist of the residue of the present Township of Nissouri.

4. North Dumfries, which shall include and consist of the six northern Concessions of the present Township of Dumfries.

5. South Dumfries which shall include and consist of the residue of the present Township of Dumfries.

6. North Dorchester, which shall include and consist of all that part of the present Township of Dorchester, lying to the northward of the line between the sixth and seventh Concessions South of the River Thames.

7. South Dorchester, which shall include and consist of the residue of the present Township of Dorchester.

8. Pilkington, which shall include and consist of that part of the present Township of Woolwich known as the Pilkington Tract.

9. Scugog, which shall include and consist of all those parts of the present Townships of Cartwright and Reach, which compose the Island known as Scugog Island.

10. Orillia, which shall include and consist of the present Township of North Orillia, and the present Township of South Orillia.

11. Brighton, which shall include and consist of all the lots from number one to number ten, both inclusive, in the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth Concessions, and in the broken front of the present Township of Cramahe, and of the lots from number twenty-three to number thirty-five, both inclusive, in the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh concessions, and in the concessions A and B, and the broken front of the present Township of Murray, and the Peninsula of Presqu'isle.

SCHEDULE E.

TRACTS DETACHED FROM TOWNSHIPS AND ATTACHED TO OTHERS.

1. The Lots on Yonge Street, in the present Township of West Gwillimbury, shall be detached from the said Township, and be annexed to and form part of East Gwillimbury; and the residue of that part of the said Township of West Gwillimbury which lies on the south-east side of the west branch of the Holland River shall be detached from the said Township of West Gwillimbury, and be annexed to and form part of the Township of King.

2. That part of the present Township of Cartwright, lying to the north of Scugog Lake, shall be detached from the said

Township of Cartwright, and be annexed to and form part of the Township of Mariposa.

3. That part of the present Township of Nichol, known as the Town Plot of the Village of Elora, shall be detached from the present Township of Nichol and be annexed to and form part of the Township of Pilkington, and the boundaries of such Town Plot shall be fixed by Proclamation to be issued by the Governor General in Council.

4. The Peninsula of Presqu'isle shall be detached from the present Township of Murray, and shall be annexed to and form part of the Township of Brighton.

5. The Gore of Murray, lying between the tenth Concession of the Township of Murray and the Township of Seymour, shall be detached from Murray, and form part of the Township of Seymour.

6. That part of the present Township of North Dorchester, lying north of the River Thames and east of the middle of the road allowance between Lots numbers eighteen and nineteen, shall be detached from the said Township and shall be annexed to and form part of the Township of Oxford North.

14 & 15 VIC.—CAP. 30.

An Act to close up part of Ottawa Street in the Village of Cayuga.

[2nd August, 1851.]

WHEREAS, &c. : *Be it, &c.*, That that part of Ottawa Street which is situated between Echo and Victoria Streets, in the said Town of Cayuga, shall be closed forthwith, and its description obliterated from the Map or Plan of the said town; and that the space or ground thus declared to be no longer a part of the said street, shall henceforth belong to the County of Haldimand, for the public uses thereof.

Part of the
said street
to be closed.

14 & 15 VIC.—CAP. 31.

An Act to indemnify the Municipal Councillors of the County of Peterborough and others, for passing a certain By-law of the Municipal Council of the said County, which was afterwards quashed.

[2nd August, 1851.]

WHEREAS, &c. : *Be it, &c.*, That the said Municipal Council of the County of Peterborough, and all and every the Municipal Councillors of the said County of Peterborough, or of the several

The said
Municipal
Council and
others

indemnified
for passing
the said By-
law, and for
their doings
under the
same.

Exception.

Townships therein, or of the Town of Peterborough, and all other officers and persons who concurred or were concerned in passing the By-law mentioned in the Preamble to this Act, shall be and are hereby indemnified and saved harmless, and shall be liable and responsible for their doings with regard to the same, so far only as they would have been if the said By-law had by the said Judgment of the Court of Queen's Bench been declared legal and valid; excepting always the liability of them, or any of them, for the costs incurred in the proceedings in which the said Judgment was given, which liability shall remain the same as if this Act had not been passed: *Provided always*, That nothing herein contained shall be construed to legalize or render valid the said By-law or any other By-law of the said Municipal Council, which would not be legal or valid without this Act.

14 & 15 VIC.—CAP. 38.

An Act to vest a certain allowance for Road in the Township of Woodhouse, in the County of Norfolk, in Andrew Thompson.

[2nd August, 1851.]

A certain
portion of
the allow-
ance for
Roads vested
in Andrew
Thompson.

WHEREAS, &c.: *Be it, &c.*, That so much of the allowance for Road between the first and second concessions of the said Township of Woodhouse, as lies within the distance of thirteen chains and thirty links towards the east, from the line between lots numbers ten and eleven within the said second concession, prolonged across the said allowance for Road, or within the distance of four chains and fifty-five links towards the west from the said line so prolonged, (measuring in both cases along the said allowance,) shall be and the same is hereby vested in the said Andrew Thompson, his heirs and assigns for ever; and the Road now laid out and travelled upon the said lots numbers ten and eleven, in the said first and second concessions, shall be and remain a public highway.

14 & 15 VIC.—CAP. 39.

An Act to vest a certain allowance for Road, in the Township of York, in certain Persons.

[2nd August, 1851.]

Preamble.

WHEREAS the Road Allowance between the first and second concessions, from the Bay, in the Township of York, in the County of York, in rear of Park lots numbers one, two, three and four, and North of Lots fifteen and sixteen in the

first concesssion from the Bay, in the said Township of York, passes through a very rough and uneven piece of ground, traversed by two deep ravines, forming the bed of the River Don and a small stream descending from the Davenport ridge, with precipitous banks on either side, rising to the height of one hundred and twenty-three feet, rendering that portion of the concession line wholly impracticable as a public highway; *And whereas* another Road to the South of the said allowance for Road, and through the said Lots, has been opened, and is used as a substitute for the said allowance; *And whereas*, from its proximity to the City Authorities, it has become the resort of dissolute persons, who congregate there in great numbers, destroying the fences and property of the adjacent proprietors of land; *And whereas* the Honorable Christopher Widmer, Adam Wilson and Lawrence Heyden, Executors and Trustees under the last Will and Testament of the late Henry Sullivan, deceased, and Henry Scadding, surviving Trustee under the last Will and Testament of the late John Scadding, deceased, and Samuel Peters Jarvis, Francis Melville Cayley, John George Howard, and John Playter, of the said City of Toronto and Township of York, own the land on each side of the said allowance for Road, from the Block-house standing at the North-west angle of Park Lot Number four to the Plank Road intersecting the said Allowance on the East Bank of the Don; *And whereas* it is expedient that the said Road Allowance should be granted to the said Christopher Widmer, the said Adam Wilson, and Lawrence Heyden, Executors and Trustees as aforesaid, the said Henry Scadding, surviving Trustee as aforesaid, the said Samuel Peters Jarvis, Francis Melville Cayley, John George Howard, and John Playter aforesaid, in lieu of the said Road so granted through the said Lots: *Be it, &c.*, That the Road so laid out through the said Lots, and now travelled as a Public Highway, shall be and remain a Public Highway, and that the said original allowance be, and the same is hereby vested in the said Christopher Widmer, the said Adam Wilson and Lawrence Heyden, Executors and Trustees as aforesaid, the said Henry Scadding, surviving Trustee as aforesaid, the said Samuel Peters Jarvis, Francis Melville Cayley, John George Howard, and John Playter, their Heirs and Assigns for ever, in lieu of the Road so given in the proportions hereinafter mentioned, that is to say: the North half of the said Allowance for Road, between the said Block-house and the point where the said Allowance is intersected by the said Plank Road to the East of the River Don, to the said Samuel Peters Jarvis, Francis Melville Cayley, and John Playter respectively, their respective heirs

Road laid out through lots of certain persons to be a public highway, and road allowance vested in those persons in lieu thereof.

and assigns, conterminously with the limits of their respective properties, butted and bounded by the said Allowance; and the South half of the said Allowance for Road, to the said John George Howard, the said Adam Wilson, and Lawrence Heyden, Executors and Trustees as aforesaid, the said Christopher Widmer, the said Francis Melville Cayley, and the said Henry Scadding, surviving Trustee as aforesaid respectively, their respective heirs and assigns, conterminously with the limits of their respective properties, butted and bounded by the said Allowance for Road.

14 & 15 VIC.—CAP. 49.

An Act to provide more effectually for taking the Periodical Census of the Province.

[30th August, 1851.]

Preamble.

Certain sections of 10 & 11 Vic. c. 14, &c., repealed.

WHEREAS it is expedient that the Census of this Province should be taken in the year one thousand eight hundred and fifty-two, then in the year one thousand eight hundred and sixty-one, and thereafter in every tenth year, and that better provision should be made for taking the said Census: *Be it, &c.*, That the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth sections of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for taking the Census of this Province, and obtaining Statistical information therein*, and all other provisions of Law inconsistent with this Act, shall be and are hereby repealed.

When the census shall be taken.

2.—*And be it, &c.*, That the Census of this Province shall be taken, and the other statistical information hereinafter mentioned shall be obtained, in the month of January, one thousand eight hundred and fifty-two, and in the same month in the year one thousand eight hundred and sixty-one, and so in every tenth year thereafter.

Census to be taken under superintendence of Board of Registration and Statistics, &c.

3.—*And be it, &c.*, That the said Census shall be taken under the superintendence of the Board of Registration and Statistics, which shall from time to time frame instructions for the guidance of the persons employed in taking the same, and forms to be used by them, and shall cause such instructions and forms to be printed and distributed in such numbers as may be requisite for the purposes of this Act.

What statistical information may be required.

4.—*And be it, &c.*, That the instructions and forms aforesaid may extend to all the heads of statistical information included in the Schedule to the Census Act passed in the

Session held in the fourth and fifth years of Her Majesty's Reign, and repealed by the Act herein first above cited, and to such other or further statistical information as the said Board may deem of public interest and importance.

5.—*And be it, &c.*, That it shall be lawful for the Governor to appoint a Census Commissioner to act in and for each County of this Province, exclusive of any City in such County, and of any incorporated Town therein containing by the then last Census five thousand souls or upwards, and a Census Commissioner to act in and for each City and each such incorporated Town as aforesaid.

Census Officers to be appointed.

6.—*And be it, &c.*, That the Census Commissioner for each such locality as aforesaid, shall appoint one or more Enumerators to act in Upper Canada in and for each Township Municipality therein (whether composed of one Township or of more than one), and in Lower Canada, in and for each Parish, extra-parochial place or Township, and in and for each Ward of any City or incorporated Town, in both sections of the Province, and may divide any such Municipality, Parish, extra-parochial place or Ward into two or more Enumeration Districts, and appoint one or more Enumerators for each, whenever he shall deem it expedient: *Provided always*, that every Penitentiary, Gaol or House of Correction, Public Hospital or Lunatic Asylum, to be named for the purpose by the Board of Registration and Statistics, shall be a separate Enumeration District, in and for which the Warden, Gaoler, Keeper, or other person having charge thereof, shall be the Enumerator by virtue of his office.

Census Officers to appoint Enumerators

Proviso.

7.—*And be it, &c.*, That the said Enumerators shall act under the immediate instructions and directions of the Census Commissioner over the County, City or Town within which they are respectively to act, and it shall be the duty of each Census Commissioner to instruct each Enumerator under him, and to see that he perfectly understands the duties he is to perform under this Act, and to furnish him with the proper forms; and also to cause public notice to be given of the taking of the said Census, and of the information which all persons are required to give to the said Enumerators, and the manner and time in and at which the same is to be given, and the penalties to be incurred for refusing or neglecting to give it.

Enumerators to be instructed by Census Officers, and to act under them, &c.

8.—*And be it, &c.*, That on the second Monday in January, one thousand eight hundred and fifty-two, and on the second Monday in January in every year thereafter in which the Census is to be taken, and upon such number of days next

Duty of Enumerators in taking the census.

after each such Monday as may be necessary, every Enumerator shall, under the instructions of the Census Commissioner under whom he is to act, visit every house in his Enumeration District, and shall diligently and faithfully take an account in writing of the name, sex, age and occupation, of every living person who abode therein on the night of the Sunday next preceding such Monday, and shall also ascertain who of such persons are transient passengers, having their permanent residence elsewhere, and whether such residence is in Lower Canada or in Upper Canada, or out of this Province, (and the name, sex, age and occupation of every person usually a resident therein, but then casually absent, distinguishing such persons from others), and shall also collect and take an account of all such further information as shall be required by his instructions; and having entered such account in writing, in the form furnished him for that purpose, the Enumerator shall then, before some Justice of the Peace, make and sign a solemn declaration, (to be printed at the foot of the proper form) that he has faithfully and diligently taken the said account, and obeyed the instructions he has received touching the same, and that to the best of his belief the same is correct as far as may be known; and shall on or before the fifteenth day of February, deliver the same to the Census Commissioner under whom he acts.

Return to be made to Census Officer.

Duty of Census Officer on receiving such returns.

9.—*And be it, &c.,* That every Census Commissioner shall immediately on receiving the said Accounts carefully examine the same, in order to ascertain whether the instructions given to the Enumerators have been punctually complied with, and if not, he shall cause any defect or inaccuracy therein to be supplied as far as may be possible; and if any Enumerator shall not take or deliver his account to the proper Census Commissioner within the time hereby prescribed, it shall be the duty of such Census Commissioner to cause the same to be forthwith taken and delivered to him.

Return to be made by Census Officer to the Board of Registration and Statistics

Duty of the Board on receiving the same.

10.—*And be it, &c.,* That so soon as any Census Commissioner shall have received all the Accounts of the Enumerators acting under him, and shall have examined the same, and satisfied himself that they have been made as accurate as possible, he shall sign a Certificate, to be printed on each, to that effect, and shall deliver them to the Board of Registration and Statistics; and the said Board shall examine the same, and cause any defects or inaccuracies they may discover therein to be corrected as far as possible, and shall then make such abstracts thereof, and compile such tables therefrom as the Governor in Council shall direct; and such abstracts and tables

shall be laid before the Provincial Parliament at its then next session ; such of them as the Governor in Council shall think proper being published in the meantime for the information of the public.

11.—*And be it, &c.,* That each Enumerator in the Cities and incorporated Towns, and in such other localities as the Board of Registration and Statistics shall think proper, shall be supplied with printed Schedules for the purpose of being left by such Enumerator for the occupant of each house, or of any story, apartment or portion thereof in his District, and filled up by such occupant; and it shall be the duty of each Enumerator receiving such Schedules to leave one copy or more thereof at each house, in his Enumeration District, in the course of the week ending on the Saturday next before the second Monday in January; and upon each such Schedule there shall be notice that such Schedule is to be filled up and signed by the occupant of such house, or by the occupant of any distinct story, apartment or portion thereof, where the house is let in different stories, apartments or portions, and occupied distictly by different families or persons, and that the Enumerator will call for the same on the Monday then next following; and every occupant of any house or of any distinct story, apartment or portion thereof, with or for whom any such Schedule shall be left as aforesaid, shall fill up the same to the best of his or her knowledge or belief, and sign the same, so far as relates to all persons dwelling in the house, story or apartment occupied by him or her, and shall deliver the same to the Enumerator when required by him so to do, or in his or her absence some other member of the family, if any of them be capable of so doing, shall fill up and sign and deliver the same to him; and every such occupant who shall wilfully or without lawful excuse refuse or neglect to fill up such Schedule to the best of his or her knowledge and belief, or to sign and deliver the same as aforesaid when required, or who shall wilfully make, sign, or deliver, or cause to be made, signed or delivered, any false return of all or any of the matters specified in any such Schedule, shall thereby incur a penalty of not less than Two nor more than Five Pounds.

Enumera-
tors in cer-
tain places
to be furnish-
ed with
printed Schedules, to be
left at each
house, &c.

Occupants of
houses, &c.,
bound to fill
up schedules

Penalty for
neglect or
for false
returns.

12.—*And be it, &c.,* That the said Enumerators shall collect the said Schedules, each in his own District, from house to house, on the Second Monday in January, or so soon as possible thereafter, and shall, on receiving the same, examine them to see that they are properly filled up and signed, and if they shall, either at that time or thereafter, believe any such Schedule to be erroneous or defective, shall forthwith proceed

Enumera-
tors to col-
lect such
schedules,
and cause
them to be
corrected if
defective.

Schedules to be delivered to Census Officers.

to complete or correct the same, for which purpose they shall have the same power to make all necessary inquiries as if no such Schedules had not been made or left as aforesaid; and when they are so completed or corrected, they shall copy the information therein contained into the Account to be by them taken as aforesaid, and shall add thereto the accounts they may have taken and the information they may have collected, of persons and things not returned in such Schedules, which they shall deliver, with their said Accounts, to the proper Census Commissioner, who shall deliver them, with his return, to the Board of Registration and Statistics.

Power of Enumerators to ask questions relative to the information required.

13.—*And be it, &c.*, That the said Enumerators shall be and are hereby authorized to ask of all persons all questions which shall be necessary to enable them to take the accounts and obtain the information aforesaid, and which they shall be authorized to ask by any instructions to be issued by the said Board of Registration and Statistics; and shall also have free access to all Assessment Rolls and other documents containing statistical information; and any person who shall refuse or neglect to answer, or shall wilfully answer falsely any such question, shall for every such refusal or neglect incur a penalty of not less than Twenty Shillings nor more than Five Pounds in the discretion of the Magistrate before whom the same shall be sued for; and the provisions of this section shall not be limited to the time within which the said accounts are to be taken as aforesaid, but shall extend to any questions which it may at any time become requisite to ask in order to correct or supply any supposed error or defect in such Accounts.

Penalty for refusing to answer, or answering falsely.

Recovery and application of penalties.

14.—*And be it, &c.* That the penalties hereinbefore imposed may be recovered in a summary manner at the suit of any Enumerator, before any one Justice of the Peace having jurisdiction in the place where the offence shall have been committed, on the oath of the Enumerator or any other credible witness, and if the penalty and the costs (which costs to be taxed by the Justice, but in no case to exceed Ten Shillings,) be not forthwith paid upon conviction, the convicting Justice may in his discretion cause the same to be levied by distress and sale of the goods and chattels of the offender by Warrant under his hand and seal, or may commit the offender to the common gaol of the place, for any period not exceeding one month, or until the penalty be paid; and one moiety of such penalty shall belong to the Crown for the public uses of the Province, and the other moiety shall belong to the prosecutor, unless he shall have been examined as a witness to prove the

offence, in which case the whole shall belong to the Crown for the uses aforesaid.

15.—*And be it, &c.,* That if any Census Commissioner or Enumerator shall wilfully disobey or contravene any of the provisions of this Act, or wilfully make any false declaration or return under the same, he shall be guilty of a misdemeanor, and shall on conviction thereof be liable to a penalty not exceeding twenty-five pounds nor less than five pounds, in the discretion of the Court before whom the conviction shall be had, and to imprisonment until such penalty be paid; and such penalty shall belong to the Crown for the public uses of the Province.

Penalty on
Census Offi-
cers or Enu-
merators
contraven-
ing this Act.

16.—*And be it, &c.,* That the power of appointing any Officer under this Act shall include the power of removing him and appointing another in his stead; that any letter purporting to be signed by the Secretary of the Province, and notifying the appointment or removal of any Census Commissioner, or any letter purporting to be signed by any Census Commissioner notifying the appointment or removal of any Enumerator, or conveying any instruction to him, or any letter purporting to be signed by the Secretary of the Board of Registration and Statistics conveying any instructions, shall be respectively *prima facie* evidence of such appointment, removal or instructions, and that such letter was addressed to the person to whom it purports to be addressed.

Power of
removal.

What shall
be evidence
of appoint-
ments, in-
structions,
&c.

17.—*And be it, &c.,* That each of the said Census Commissioners shall receive an allowance for his services, not exceeding the rate of twelve shillings and sixpence per diem for the time during which he shall be actually occupied in his official duties; and that each of the said Enumerators shall receive an allowance not exceeding the following rates, viz. :

Allowance to
Census Offi-
cers;

At the rate of ten shillings for every hundred persons by him returned when such persons reside in the country parts; but with power to the said Board of Registration and Statistics to increase the said rate to a sum not exceeding fifteen shillings for every hundred persons returned, in cases where, from the dispersed situation of the houses, they shall be of opinion that such additional allowance ought to be made; and to a sum not exceeding twenty shillings for every fifty persons returned, in cases where the population shall not exceed three hundred persons in an area of ten miles square, proportioning such allowance as far as possible to the labor required of the Enumerator; and when such persons reside in any city or incorporated town, then at the rate aforesaid for the first three

And to Enu-
merators.

Proviso.

Allowances,
how paid.

Report to be
laid before
Parliament.

Interpreta-
tion.

The Gover-
nor may
alter the
month by
proclamation

thousand persons returned by him, and at the rate of ten shillings for every three hundred persons returned by him over three thousand; and the said allowance having been fixed by the said Board, shall be paid to the persons entitled thereto, in such manner as the Governor in Council shall direct: *Provided* that such allowance shall not in any case be payable until the services hereby required of the person receiving it shall have been faithfully and fully performed: And the said allowance and all expenses to be incurred by the said Board in carrying this Act into effect, shall be paid out of the Consolidated Revenue Fund of this Province.

18.—*And be it, &c.*, That a full Report of all things done under this Act, and an Account of all moneys expended under the authority thereof, shall be laid before the Provincial Parliament within the first fifteen days of the then next Session thereof.

19.—*And be it, &c.*, That the word “House” in this Act shall include all vessels and other dwellings or places of abode of any kind.

20.—*And be it, &c.*, That if at any time it shall appear to the Governor in Council that, from any cause, the Census cannot be taken in any county in the month of January when it ought to be taken in pursuance of this Act, it shall be lawful for his Excellency in Council, by Proclamation to be published in the *Canada Gazette*, to declare and ordain that the Census shall be taken in such county in some other month, being the nearest to the month in which it ought to be taken as aforesaid that circumstances and the nature of the case will admit, and thereupon, the Census may and shall be taken in such county accordingly in the same way and with the same effect as if taken in the month in which, without such Proclamation, it would be taken under this Act.

14 & 15 VIC.—CAP. 51.

An Act to consolidate and regulate the General Clauses relating to Railways.

[30th August, 1851.]

MUNICIPALITIES.

18.—*And be it, &c.*, That—

Municipal
Corporations
may take
stock.

1. Municipal Corporations in this Province may subscribe for any number of shares in the Capital Stock of, or lend to or guarantee the payment of any sum of money borrowed by the

Company from any Corporation or person, or indorse or guarantee the payment of any Debenture to be issued by the Company for the money by them borrowed, and shall have power to assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose to issue Debentures payable at such times and for such sum respectively, not less than Five Pounds currency, and bearing or not bearing interest, as such Municipal Corporation may think meet.

2. Any such Debenture issued, indorsed or guaranteed, shall be valid, and binding upon such Municipal Corporation, if signed or indorsed, and countersigned by such officer or person, and in such manner and form as shall be directed by any By-law of such Corporation, and the Corporation Seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as shall be directed in such By-law as aforesaid.

Debentures issued by them to be binding.

3. No Municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect shall have been duly made, and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspaper printed in the nearest city or town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality.

They cannot subscribe for stock unless By-laws are made for that purpose.

4. The Mayor, Warden or Reeve, being the head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of Five Thousand Pounds, or upwards, shall be and continue to be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company.

Mayor, &c., to be *ex officio* a Director in certain cases.

14 & 15 VIC.—CAP. 57.

An Act to remove doubt as to Municipal Corporate Bodies acquiring Public Works without the limits of such Municipalities.

[30th August, 1851.]

WHEREAS in and by an Act passed in the twelfth year of Preamble.

12 Vic. c. 5,
cited.

Her Majesty's Reign, intituled, *An Act for the better management of the Public Debt, Accounts, Revenue, and Property*, it is provided, That it shall be lawful for the Governor in Council to enter into arrangements with any of the Municipal or *District* Councils, or other local Corporations or authorities, for the transfer to them of any of the Public Roads, Harbours, Bridges, or Public Buildings, which it may be found more convenient to place under the management of such *District* or Municipal Council, or other local authority; *And whereas* it is doubtful whether, under the provisions of the said Act, any *District* or Municipal Council, or local Corporation or authority, could acquire any such Public Roads, Harbours, Bridges or Public Buildings situate beyond and without the limits of such *District* or Municipal Council, or other local Corporation or authority; *And whereas* it is expedient to remove such doubt: *Be it, &c.*, That it shall and may be lawful to and for any Municipal Corporation, or other local corporate body or authority, to contract for, purchase, acquire and hold any such Public Roads, Harbours, Bridges or Public Buildings, which, in and by the said recited Act, could lawfully be disposed of, whether the same be situate within the limits of such Municipal Corporation, or other corporate body or authority, or otherwise; anything in the said recited Act to the contrary notwithstanding.

See Municipal Act, 1858.

Corporations empowered to acquire public roads, &c., beyond limits.

14 & 15 VIC.—CAP. 73.

An Act to make provision for the construction of a Main Trunk Line of Railway throughout the whole length of this Province.

[30th August, 1851.]

If such guarantee cannot be obtained, the railway may be made at joint expense of the Province and any Municipal Corporation therein.

5.—*And be it, &c.*, That if the Funds necessary for making the Main Trunk Line of Railway mentioned in the next preceding section, shall not be raised by loan under the authority and guarantee of the Parliament of the United Kingdom, or advanced as a loan to this Province, under the said authority, then the said Main Trunk of Railroad, or so much thereof as shall not be made by funds so raised or advanced as aforesaid, may be made with funds of which one half shall be raised on the credit of the Consolidated Revenue Fund of this Province, provided the other half shall have been subscribed for by Municipal Corporations of this Province.

How that part of the cost payable by Municipal Corporations may be raised.

6.—*And be it, &c.*, That if the Governor in Council shall determine that it is expedient that the whole or any part of the said Main Trunk Line of Railway shall be made with funds to be raised in the manner mentioned in the next pre-

ceding section, the Governor shall, by proclamation, declare the total amount required for such purpose, and the sum to be raised by subscriptions of Municipal Corporations under this Act; and it shall then be lawful for any Municipal Corporation in this Province to subscribe for such amount of the sum last mentioned as it may think proper, by a By-law declaring such subscription and the amount thereof, which declaration shall suffice, and it shall not be necessary by such By-law to impose any rate, or to make any provision or enactment other than such declaration as aforesaid, which shall be sufficient to enable the proper officers to assess and levy, from time to time, such rate as may be necessary to produce a clear sum equal to that payable to the Receiver General under the said By-law and this Act, and Ten per cent. over, to make up any deficiency, which Ten per cent., or so much thereof as may not be required to make up any deficiency, shall remain in the hands of the proper officer of the Corporation, and go in deduction of the next sum to be assessed and levied under such By-law, or, if not required for that purpose, then for the general uses of the Corporation; and any sum payable to the Receiver General under any such By-law and this Act, shall be a debt due from the Municipal Corporation so in default to the Crown, and the Warrant of the Receiver General, countersigned by the Inspector General, directed to the Sheriff of the proper District, County, or United Counties, certifying that any such sum is so payable and remains unpaid, and commanding him to levy the same, shall be sufficient authority to the said Sheriff to levy such sum, with interest and costs, and to pay over such sum when levied to the Receiver General, in like manner as he might do under a Writ of Execution for such sum issuing out of any Court in which judgment might have been obtained for the same in favor of the Crown; and no such By-law shall be repealable except with the express consent of the Governor in Council; and if more money be subscribed for than is required to be raised by subscription of Municipal Corporations as aforesaid, then the sum subscribed for by each shall be *ipso facto* proportionately reduced, and such reduction shall be notified to the Municipal Corporations concerned, in such way as the Governor may direct: *Provided always*, that no Municipal Corporation shall subscribe for stock, or incur any debt or liability under this Act, unless and until a By-law to that effect shall have been duly made and adopted, with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof containing a copy of such proposed By-law inserted at least four times

Proviso.

in each Newspaper printed within the limits of the Municipality, or, if none be printed therein, then in some one or more Newspaper printed in the nearest City or Town thereto and circulated therein.

Municipal
Subscription
Fund consti-
tuted.

Authority to
raise half the
money on
credit of
Consolidated
Revenue
Fund;

And the
other half on
that of the
Municipal
Subscription
Fund.

7.—*And be it, &c.*, That the sums subscribed for as aforesaid shall form a Fund to be called The Railway Municipal Subscription Fund; and so soon as the sum required shall have been subscribed for as aforesaid, it shall be lawful for the Governor in Council from time to time to authorize the issuing of Debentures to an amount not exceeding in the whole that so subscribed for, in such form, for such separate sums, and at such rate of interest not exceeding six per centum per annum, and to make the principal and interest payable at such periods and at such places as to him shall seem most expedient, the said principal and interest being hereby made chargeable upon the Consolidated Revenue Fund of this Province, but after the principal and interest of any sum to be raised under this Act, or any act of the present Session, by advance from the Government of the United Kingdom or with the guarantee of the said Government: And it shall also be lawful for the Governor in Council from time to time to authorize the issuing of Debentures to an amount not exceeding in the whole that so subscribed for as aforesaid, (and not exceeding at any time that for which Debentures shall then be issued under this section on the credit of the Consolidated Revenue Fund) in such form, for such separate sums, and at the lowest rate of interest not exceeding seven per centum per annum, at which they can be negotiated at par, and to make the principal payable at any period, not being less than twenty years from the date of such Debentures respectively, and the interest, at such periods as he may think proper, and to make the principal and interest payable at such places as he may deem most expedient, such principal being chargeable not upon the said Consolidated Revenue Fund, but solely upon the Railway Municipal Subscription Fund aforesaid and the Sinking Fund hereinafter mentioned.

14 & 15 VIC.—CAP. 77.

An Act to authorize the employment of Military Pensioners and others as a Local Police Force.

[30th August, 1851.]

Preamble.

WHEREAS it is expedient that there should be in different parts of this Province, an organized Police Force which may, when occasion requires, be called upon to assist in the present

vation of the Peace: *Be it, &c.*, That any of the Military or Naval Pensioners who, under the Acts of the Parliament of the United Kingdom in force in that behalf, shall be enrolled as a local force for the preservation of the Peace in any part of this Province, and who shall volunteer to serve also as members of a Local Police Force, or any other person volunteering to serve as aforesaid, and found duly qualified for such service, may be enrolled to be so employed when required, under such regulations, superintendence and control as the Governor in Council shall think proper: *Provided* the number of men so enrolled at any one time shall not exceed five hundred.

Local Police
Force to be
enrolled.

Proviso.

2.—*And be it, &c.*, That the Pensioners and others so enrolled as aforesaid, shall be and are hereby declared to be respectively Constables and Peace Officers for any locality in which they shall for the time being be employed, and shall have all the powers and authority, and perform all the duties of such office, except in so far as it may be herein otherwise provided, and may be sworn as such by any Magistrate for the place where they are respectively enrolled.

Members of
Local Police
Force to be
constables,
&c.

3.—*And be it, &c.*, That the said Pensioners or other persons, when actually employed as Constables and members of such Police Force as aforesaid, shall be entitled to receive, out of Provincial or Local Funds, the same pay and advantages as are allowed to the said Pensioners by Her Majesty's Regulations in that behalf, when called out as Military Pensioners to act in aid of the Civil Power; but no such person enrolled under this Act shall be liable to be called upon to act as a Constable or member of such Police Force for less than four days at any one time, except by his own consent; and no such Military or Naval Pensioners as aforesaid shall be liable to serve as a member of the said Police Force at any time when his services shall be required in any other capacity by the Imperial or Military Authorities.

Allowance to
members of
Local Police
Force when
on duty, &c.

4.—*And be it, &c.*, That the Pensioners and other persons enrolled as members of such Police Force as aforesaid, shall, while so enrolled, be exempt from serving as Constables (except when acting as members of the said Police Force,) or as Jurors, or in any Municipal Office, or in the Militia, and also from Statute Labour or any capitation tax in lieu thereof, and from arrest for debt for any sum under Thirty Pounds; and any such Pensioners, while so enrolled, shall be exempt from taxes on any property of which the occupation may be allowed them by the Imperial or Military Authorities, and of which the title shall remain in the Crown; but they shall have no

Members of
Local Police
Force
exempted
from certain
offices, &c.

right to vote at any election, whether Municipal or for a member of the Provincial Parliament, upon any such property.

Superintendent may be a Justice of the Peace.

5.—*And be it, &c.*, That it shall be lawful for the Governor, if he shall deem it expedient, to appoint the Superintendent or Chief of the Police Force in any locality, to be a Justice of the Peace for such portion of this Province as the Governor shall think fit, and any such Superintendent or Chief of the Police Force may act as such Justice of the Peace, although he may not have the qualification in property required in Justices of the Peace generally.

Free grants of Public Lands to members of Local Police Force.

6.—*And be it, &c.*, That a free grant of fifty acres of the public lands shall, on condition of actual settlement thereon in the manner and within the time usual in cases of free grants, be made to each such Pensioner or other person who shall have been enrolled in such Police Force during five years, and shall after such service receive a certificate of good conduct, and of his having faithfully performed his duty as a member of such Police Force whenever called upon to act as such, from his Commanding Officer or the Superintendent or Chief of such Police Force under whom he shall have served, and countersigned by the Provincial Secretary; such grant to avail to the children or legal representatives of any such Pensioner or person who may die before receiving the Letters Patent therefor, on condition of their performing or completing the duties of actual settlement to which such Pensioner or person was bound: And anything in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for the disposal of Public Lands*, to the contrary notwithstanding.

4 & 5 Vic. c. 100.

Officers in command of Pensioners to be Justices.

7.—*And be it, &c.*, That the Officer in command of the enrolled Pensioners in Canada, shall be *ex officio* a Justice of the Peace for every part of this Province, and that the Staff Officers of Pensioners shall be respectively Justices of the Peace for the locality in which they may be appointed to command the said Pensioners, and in any adjoining locality; and that each of the said Officers, and such of the said Pensioners as shall volunteer as aforesaid, shall be held to be Officers and Soldiers of Her Majesty's Army on actual service, and entitled to all the privileges and exemptions to which such Officers and Soldiers, when on actual service or on full pay, are by law entitled: *Provided always*, that no such Officer as aforesaid shall have any power to act as a Justice of the Peace when called out or acting with any such Pensioners in aid of the Civil Power.

Provide: they shall not act in certain cases.

Who shall be

8.—*And whereas*, under the Imperial Acts aforesaid, the

Governor of this Province is empowered to issue his Warrant to the Mayor or other Chief Magistrate of any Town or *District* wherein such Pensioners as aforesaid may be enrolled, authorizing him in certain cases where the public peace may be endangered to call out the whole or such part of the enrolled Pensioners aforesaid, as he may consider necessary, in aid of the Civil Power: *Be it, &c.*, That the Mayor of every City or incorporated Town in Upper or Lower Canada, the Warden of every County or Union of Counties in Upper Canada, and such Justice of the Peace as the Governor may from time to time designate in every County in Lower Canada, shall be held to be the Chief Magistrate of such City, Town, County or Union of Counties for the purposes of the said Imperial Acts.

deemed the
"Chief
Magistrate"
in certain
cases.

9.—*And be it, &c.*, That this Act shall continue in force for five years from the passing thereof, and from thence to the end of the next ensuing Session of Parliament.

Duration of
Act.

14 & 15 VIC.—CAP. 83.

An Act to authorize the confinement of Lunatics in cases where their being at large may be dangerous to the public.

[30th August, 1851.]

WHEREAS it is expedient that provision should be made for the confinement and maintenance of Lunatics and other persons of unsound mind, charged with or convicted of offences; or whom, from the character of their malady, it may be dangerous to permit to go abroad: *Be it, &c.*, That in all cases where it shall be given in evidence upon the trial of any person charged with any offence, whether the same be treason, felony or misdemeanor, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the Jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of committing such offence, the Court before whom such trial shall be had, shall order such person to be kept in strict custody in such places and in such manner as to the Court shall seem fit, until Her Majesty's pleasure shall be known; and it shall thereupon be lawful for the Governor of this Province to give such order for his safe custody of such person during Her Majesty's pleasure, in such place and in such manner as to such Governor shall seem fit; and in all cases where any person before the

Preamble.

Jury acquitting prisoner on ground of insanity, to state so in their verdict.

Court in that case to order such insane person to be kept in custody until Her Majesty's pleasure shall be known; And Governor may give an order for the safe cus-

body of such
insane
person.

passing of this Act has been acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the Court before whom such person has been tried, and still remains in custody, it shall be lawful for the Governor of this Province to give the like order for the safe custody of such person during the pleasure of her Majesty as such Governor is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the ground of insanity.

Similar provisions with respect to persons indicted for any offence, and found to be insane by a jury, to be impannelled for the purpose of their arraignment.

2.—*And be it, &c.,* That if any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully empannelled for that purpose, so that such person cannot be tried upon such indictment, or if, upon the trial of any person so indicted, such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the Court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until Her Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any Court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such Court to order a jury to be empannelled to try the sanity of such person; and if the jury so empannelled shall find such person to be insane, it shall be lawful for such Court to order such person to be kept in strict custody in such place and in such manner as to such Court shall seem fit, until Her Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for the Governor of this Province to give such order for the safe custody of such person so found to be insane, during her Majesty's pleasure, in such place and in such manner as to him shall seem fit.

Dangerous lunatics to be confined by warrant of Justices;

3.—*And whereas* there are sometimes persons who, by lunacy or otherwise, are furiously mad, or so disordered in their senses as to endanger their own persons or property, or the person or property of others, if permitted to go at large; *Be it, &c.,* That it shall and may be lawful for any two or more Justices of the Peace, residing in the City, Town, Village, Township, Parish or place where such lunatic or mad person shall be found, of whom the Chairman of the Quarter Sessions for the County if in Upper Canada, or a Circuit Judge if in Lower Canada, shall be one, by Warrant under their Hands and Seals directed to the Constables of any such City, Town, Village, Township, Parish or place; or some of them, to cause such person to be apprehended and kept safely locked up in

some secure place within the *District* or County where such City, Town, Village, Township, Parish or place shall lie, as such Justices shall under their Hands and Seals direct and appoint; if the last legal settlement of such person shall be in any Parish, Town or place within such *District* or County, and if such settlement shall not be there, then such person shall be sent to the place of his or her last legal settlement, and shall be locked up by Warrant of two Justices of the *District* or County to which such person is so sent, of whom the Chairman of the Quarter Sessions for such last mentioned County if in Upper Canada, or a Circuit Judge if in Lower Canada, shall be one, in manner aforesaid; and the reasonable charges of removing, and of keeping, maintaining and curing of such person during such restraint, (which shall be for and during such time only as such lunacy or madness shall continue) shall be satisfied and paid (such charges being proved upon oath), by order of two or more Justices of the Peace, directing the Treasurer of the Municipal Corporation of the City, Town, Village, Township, Parish or place where any goods, chattels, lands or tenements of such person shall be, to seize and sell so much of the goods and chattels, or receive so much of the annual rents of the lands and tenements as is necessary to pay the same, and to account for what is so seized, sold or received, to the next Quarter Sessions; but if such person hath not an estate to pay and satisfy the same, over and above what shall be sufficient to maintain his or her family, then such charges shall be satisfied and paid by the City, Town, Village, Township, Parish or place to which such person belongs, by order of two Justices, directed to the Treasurer of the Municipal Corporation thereof for that purpose.

And if necessary, sent to place of settlement, &c.

Goods and lands of such lunatics, if any, to be seized and sold to pay charges of removal and maintenance

Otherwise at the charge of the Municipality of his place of settlement.

6.—*Provided always, and be it, &c.*, that the next preceding section of this Act, or anything therein contained, shall not extend or be construed to extend to restrain or abridge the prerogative of the Queen, or the power or authority of the Court of Chancery in Upper Canada, or the Superior and Circuit Courts in Lower Canada, or of any Master or Judge thereof, or of any Committee or Curator appointed by or under the authority of the same, touching or concerning such last mentioned lunatics, or to restrain or prevent any such Committee or Curator, or any friend or relation of such last mentioned lunatics, from taking them under their own care and protection; anything in the said section of this Act contained to the contrary notwithstanding.

Proviso.

7.—*And whereas* it is expedient that provision should be made for the due maintenance and care of persons directed to

When insane persons are kept in cus-

tody under
first and
second sec-
tions, Just-
ices to inquire
of their set-
tlement and
make order
for their
maintenance

be kept in custody under the first and second sections of this Act, while they shall be so kept in custody, *Be it, &c.*, That in all cases where any person shall, by virtue of the said first and second sections of this Act, be kept in such custody as a lunatic or insane person by order of any Court, or by order of the Governor of this Province subsequent thereto, it shall and may be lawful for any two Justices of the Peace of the *District* or County where such person shall be so kept in custody, of whom the Chairman of the Quarter Sessions for the County, if in Upper Canada, or a Judge of the Circuit Court, if in Lower Canada, shall be one, to inquire into and ascertain by the best legal evidence that can be procured, under the circumstances of personal legal disability of such lunatic, the place of the last legal settlement, and the circumstances of such person; and if it shall not appear that he or she is possessed of sufficient property which can be applied to his or her maintenance, to make an order upon such City, Town, Village, Township, Parish or place where they shall adjudge him or her to be legally settled, to pay such weekly sum for his or her maintenance in such place of custody as such Court or the Governor of this Province shall appoint, as shall from time to time be fixed upon and directed in writing, by the Governor of this Province, through the Provincial Secretary; and that where such place of settlement cannot be ascertained, such allowance shall be paid by the Treasurer of the Municipal Corporation of the City, Town, Village, Township, Parish or place where such person shall have been apprehended; but if it shall appear that such person is possessed of such sufficient property as aforesaid, then such Justices shall order and direct the same to be applied to pay and satisfy the expense of the maintenance of such person, in the manner directed, in the case of lunatics and mad persons, by the fifth section of this Act: *Provided always*, that the Municipal Corporation of the City, Town, Village, Township, Parish or place in which the said Justices shall adjudge any lunatic to be legally settled, may appeal against such order to the General Quarter Sessions of the Peace, to be holden for the *District* or County where such order shall be made, in like manner and under like restrictions and regulations as against any other judgment, order or decision of a Justice or Justices, giving reasonable notice thereof to the Clerk of the Peace of such *District* or County, who shall be respondent in such appeal, which said appeal the Justices of the Peace, assembled at the said General Quarter Sessions, are hereby authorized and empowered to hear and determine, in the same manner as other appeals to Courts of Quarter Sessions are now

Proviso.

heard and determined in Upper or in Lower Canada respectively.

8.—*And be it, &c.*, That every person of full age who, after the passing of this Act, shall be a resident and inhabitant of any City, Town, Village, Township, Parish or place for one year, and the members of his family who shall not have gained a separate settlement, shall, for the purposes of this Act, be deemed settled in such City, Town, Village, Township or place; and that a minor may be emancipated from his or her father, and may gain a settlement in one or more of the following ways, viz.: First, If a female, by being married, and living for one year with her husband, in which case the husband's settlement shall determine that of the wife. Second, If a male, by being married, and residing for one year separately from the family of his father. Third, by being bound as an apprentice, and serving one year as such under indentures of apprenticeship. Fourth, By being hired and actually serving for one year for wages to be paid to such minor; and that a woman of full age, by marrying, shall acquire the settlement of her husband, if he have any; and until a person shall have gained a settlement in his own right, his settlement shall be deemed that of his father or mother; but no child born in any Hospital, Lunatic or other Asylum, Gaol or House of Correction, or other like place of reception or involuntary residence, and no child born while its mother is restrained of her liberty in virtue of this Act, shall gain any settlement, merely by reason of the place of such birth; nor shall any residence of any person in any such place as aforesaid of reception or involuntary residence, operate to give such lunatic a settlement in the City, Town, Village, Township, Parish or place where such actual residence may be had.

Settlement,
what and
how gained.

14 & 15 VIC.—CAP. 111.

An Act to define and restore certain Rights to parties therein mentioned.

[30th August, 1851.]

WHEREAS it is desirable to remove doubts which have arisen in regard to certain provisions of the nineteenth section of an Act passed by the Parliament of this Province, in the session thereof held in the thirteenth and fourteenth years of Her Majesty's reign, intituled, *An Act for the better establishment and maintenance of Common Schools in Upper Canada*; and whereas it is inexpedient to deprive any of the parties concerned of rights which they have enjoyed under preceding

Preamble.

13 & 14 Vic.
c. 48, cited.

Each party applying shall be entitled to have a separate school.

Proviso.

School Acts for Upper Canada: *Be it, &c.*, That each of the parties applying according to the provisions of the said Act shall be entitled to have a separate School in each Ward, or in two or more Wards united, as said party or parties shall judge expedient, in each city or town in Upper Canada: *Provided always*, that each such School in its establishment and operations shall be subject to all the conditions and obligations, and entitled to all the advantages, imposed and conferred upon separate Schools by the said nineteenth section of the said Act.

14 & 15 VIC.—CAP. 123.

An Act to explain and amend the Acts for preventing obstructions in Rivers and Rivulets in Upper Canada.

[30th August, 1851.]

Acts of Canada,
7 Vic. c. 36,
11 & 11 Vic.
c. 20, explained and amended.

Be it, &c., That for and notwithstanding anything to the contrary contained in the Act of the Parliament of this Province, passed in the Session thereof, held in the seventh year of Her Majesty's Reign, chaptered thirty-six, intituled, *An Act to prevent obstructions in Rivulets in Upper Canada*, or in the Act of the Parliament of this Province, passed in the Session thereof, held in the tenth and eleventh years of Her Majesty's Reign, chaptered twenty, and intituled, *An Act to amend, explain and continue an Act passed in the seventh year of the reign of Her Majesty, intituled, 'An Act to prevent obstructions in Rivers and Rivulets in Upper Canada,'* the said Acts shall not, nor shall either of them, or any part thereof, extend to the River Saint Lawrence, nor to the River Ottawa, nor to any River or Rivulet where Salmon or Pickerel or Black Bass or Perch do not abound.

16 VIC.—CAP. 5.

An Act to authorize the City of Toronto to negotiate a Loan of One Hundred Thousand Pounds to consolidate a part of the City Debt.

[7th October, 1852.]

Preamble.

WHEREAS the City of Toronto have petitioned to be authorized by law to borrow on the debentures of the said city, a sum not exceeding one hundred thousand pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer of the said petition should be granted: *Be it, &c.*, That it shall and may be lawful to and for the City of Toronto, to raise by way of loan upon

The City of Toronto may borrow
£100,000.

the credit of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, either in this Province, in Great Britain, or elsewhere, who may be willing to lend the same, a sum of money not exceeding the sum of one hundred thousand pounds of lawful money of Canada.

2.—*And be it, &c.,* That it shall and may be lawful for the Mayor of the said City of Toronto for the time being, to cause to be issued debentures of the said City of Toronto, under the corporation seal of the said city, signed by the Mayor and countersigned by the Chamberlain of the said city for the time being, in such sums not exceeding in the whole the said sum of one hundred thousand pounds, as the Common Council shall direct and appoint, and that the principal sum secured by the said debentures and the interest accruing thereon, shall be made payable either in this Province, in Great Britain, or elsewhere, as the said Common Council shall deem expedient or necessary.

Debentures
may be
issued.

3.—*And be it, &c.,* That the sum of fifty thousand pounds, part of the said loan so to be raised as aforesaid, shall be applied by the said City of Toronto in the payment of the promissory notes of the said city now current in this Province, and in the redemption of such of the debentures of the said City of Toronto as were issued prior to the passing of the Act passed in the twelfth year of her Majesty's reign, and intitled, *An Act to provide by one General Law for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, and may fall due within the ten years next after the passing of this Act.

£50,000 to be
applied to
the redemp-
tion of cer-
tain notes,
&c., of the
said City

4.—*And be it, &c.,* That the funds derived from the negotiation of the said debentures so to be appropriated as aforesaid, shall, when received, be deposited by the Chamberlain of the said city for the time being, in the Bank of Upper Canada, at Toronto, and only be withdrawn therefrom as they may from time to time be required for the payment and redemption of the said promissory notes and debentures in the next preceding section of this Act mentioned.

The said
£50,000 shall
be deposited
in the Bank
of Upper
Canada, and
applied sole-
ly to the said
purposes.

5.—*And be it, &c.,* That the sum of fifty thousand pounds, the remainder of the said loan so to be raised as aforesaid, shall be applied in payment of ten thousand shares of the capital stock of "The Ontario, Simcoe and Huron Railroad Union Company," lately purchased by the said City of Toronto, under resolution of the Common Council passed on the twenty-ninth day of July, one thousand eight hundred and fifty-two,

£50,000 to be
applied to
the payment
of Stock
taken in a
certain Rail-
road.

in manner herein provided; and it shall be the duty of the Chamberlain of the said city for the time being, (and he is hereby authorized and empowered so to do,) forthwith, with the consent of the holders thereof, to call in such debentures of the said City of Toronto as may have heretofore been issued under any By-law of the Common Council of the said city, and taken in payment of such stock, and to substitute therefor so much of the funds received on account of the debentures to be issued under this Act as may be necessary for that purpose.

A certain By-law of the Common Council of Toronto may be repealed.

6.—*And be it, &c.,* That for and notwithstanding any provision, clause, matter or thing contained in any Act of Parliament of this Province to the contrary, it shall and may be lawful for the Common Council of the said City of Toronto, after having called in the debentures described in the next preceding section, to repeal the By-law of the said Council, passed on the twenty-eighth day of June, one thousand eight hundred and fifty-two, authorizing the levy of a special rate for the purpose of paying and satisfying certain debentures issued or to be issued in aid of the said Ontario, Simcoe and Huron Union Railroad, or payment of the said stock, and that for the payment, satisfaction and discharge of the debentures to be issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City of Toronto, in a by-law to be passed authorizing the said loan of one hundred thousand pounds, and the issuing of the debentures therefor, to impose a special rate per annum over and above, and in addition to all other rates to be levied in each year, which shall be sufficient to form a Sinking Fund of two per cent. per annum for that purpose.

A special rate to form a Sinking Fund may be imposed by By-law.

How sums raised by such rate shall be invested, and the dividends or interest thereon applied.

7.—*And be it, &c.,* That it shall be the duty of the Chamberlain of the said City of Toronto, from time to time to invest all sums of money raised by special rate for the Sinking Fund, provided in the preceding section, either in the debentures provided by this Act, or in any debentures issued by the Government of Canada, or in such other securities as the Governor of this Province shall, by order in Council direct or appoint, and apply all such dividends or interest on the said Sinking Fund to the extinction of the debt created by this Act.

By-law not to be repealed until debt be paid.

See 22 Vic. c. 99, s. 228.

8.—*And be it, &c.,* That any By-law to be passed under the sixth section of this Act shall not be repealed until the debt created by this Act and interest thereon shall be paid and satisfied, and that the *one hundred and seventy-eighth section*

of the Municipal Corporations Act of Upper Canada shall extend to any by-law passed under this Act.

Sec. 178 of 12 Vic. c. 81, shall extend to any by-law passed under this Act.

16 VIC.—CAP. 21.

An Act to supply an omission in Schedule B. to the Upper Canada Municipal Corporations Law Amendment Act of 1850.

[10th November, 1852.]

WHEREAS in the Upper Canada Municipal Corporations Law Amendment Act of 1850, an error was accidentally committed in leaving out of Schedule B. the division of the Town of Picton into Wards: *Be it, &c.*, That Schedule B. annexed to the Act first above cited, be amended, by inserting, immediately after the description of the boundaries of the Town of Picton, the following words:

Preamble.

Schedule B amended; division of Picton into wards

“The said Town to be divided into three Wards to be called respectively, Hallowell Ward, Brock Ward, and Tecumseth Ward, and to comprise respectively the following portions of the said Town, that is to say:

“The said Hallowell Ward to comprise all that part of the Town which lies West of Bowery Street:

“The said Brock Ward to comprise all that part of the Town which lies east of Bowery Street and north of the Bay:

“And the said Tecumseth Ward to comprise all that part of the Town which lies on the south side of the Bay.”

2.—*And be it, &c.*, That notwithstanding the omission in the said Act of the description of the Division of the said Town of Picton into Wards, every act and thing done by the Mayor and Town Council of the said Town shall be as valid as if the above mentioned description of the division of the said Town into Wards had been inserted in the said Schedule B. at the time when the said Act was passed, and the said Act shall be construed and have effect to all intents and purposes as if the said description had been so inserted as aforesaid.

Confirmation of acts done by the Corporation.

16 VIC.—CAP. 22.

An Act to establish a Consolidated Municipal Loan Fund for Upper Canada.

[10th November, 1852.]

WHEREAS it would greatly facilitate the borrowing, upon advantageous terms, of such sums as may be required by any

Preamble

Consolidated
Municipal
Loan Fund
established.

County, City, Town, Township, or Village Municipality in Upper Canada, for effecting or aiding in effecting important Works calculated to benefit such County, City, Town, Township or Village that such sums should be raised by Debentures issued upon the credit of a Consolidated Municipal Loan Fund under the management of the Provincial Government, instead of being raised upon the separate credit of each individual Municipality; *Be it, &c.*, That there shall be a Consolidated Municipal Loan Fund of Upper Canada, to consist of all moneys which under this Act or any other Act shall be directed to form part of the said Fund; and such Fund shall be managed by the Receiver General, under the direction of the Governor of this Province in Council, and the books and accounts thereof shall be kept in his office.

Municipal-
ties may bor-
row money
on the credit
of such Fund
for certain
purposes.

2.—*And be it, &c.*, That it shall be lawful for the Corporation of any County, City, Incorporated Town, Township or Village, by by-law to authorize any sum of money to be raised on the credit of the said Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found requisite, to defray the expense of building or improving any gaol or court house for the use of such Municipality, or for acquiring, making, constructing or completing, or assisting in the making, construction or completion of any railroad, canal or harbour, or for the improvement of any navigable river, within or without the Municipality, but the acquisition, making or construction whereof will benefit the inhabitants of such County, City, Town, Township or Village, and by such by-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such by-law; and that it shall be lawful for the Corporation of any City or County by by-law to authorize any sum of money to be raised on the credit of the Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found necessary, to defray the cost of making or improving any bridge, macadamized, gravel or planked road, within or without the Municipality, but the making or improving whereof will benefit the inhabitants of such County or City, and by such by-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such By-law.

How a Muni-

1. By any such By-law it may be provided that the assist-

ance of the Municipality shall be granted towards making, constructing, or completing any such railroad, bridge, macadamized, gravel or planked road, canal or harbour, or towards the improvement of any navigable river, either by subscribing on behalf of the Municipality for stock in any company incorporated for making, constructing or completing the same, or by loaning money to such company, or to any Board of Commissioners incorporated for any of the above purposes, in which case the security to be taken from the company or Board of Commissioners, and the other terms of the loan shall be mentioned in the By-law.

unicipality may assist in any undertaking

2. The By-law shall recite that the loan is to be raised under the provisions of this Act, and shall express the term for which the loan is required, and which shall not in any case exceed thirty years, nor be less than five years.

What provisions the By-law must contain.

3. If the By-law be passed by a County Council, the principal and interest of the loan shall be payable by all the Townships, Towns and Villages in the County, and the County Treasurer shall in each year apportion the amount to be paid by each, according to the amount of property returned upon the assessment rolls of such Townships, Towns and Villages respectively, for the financial year next preceding that for which the apportionment is to be made.

Further provisions required in By-law.

4. Such By-law, or every material provision thereof, shall be published for the information of the rate-payers, for at least one month before the final passing thereof, in some newspaper published weekly or oftener, within the territorial jurisdiction of the Municipality, or if there be no such newspaper published within such jurisdiction, then in some newspaper published in the place nearest to such jurisdiction, and also by posting the same up in at least four public places in the Municipality (and if it be a By-law of a County Council, then in each Municipality in such County), with a notice, signed by the Clerk of the Municipality in the Council of which the By-law originated, signifying that it is a true copy of a By-law which will be taken into consideration by the Council of the Municipality after the expiration of one month from the first publication thereof in such newspaper, (the date of which first publication shall be mentioned in such notice,) and that on some day and at some hour and place, (or if the Meeting be for a County By-law, places,) named in the notice, and which shall have been previously fixed by the said Council, such day not being less than three weeks, nor more than four weeks, after such first publication, a General Meeting of the qualified Municipal Electors of the Municipality, (or of the several

To be published before passing.

General meetings of electors.

Municipalities within the County,) will be held for the purpose of considering such By-law, and approving or disapproving the same.

Proceedings
at such
meeting.

5. On the day and at the hour and place (or places) appointed by such notice as aforesaid, the qualified Municipal Electors, or such of them as choose to attend the Meeting, shall take the said By-law into consideration, and shall approve or disapprove the same; and at such Meeting the Mayor or Reeve of the Municipality in which it is held shall preside, or in his absence some other Member of the Council of such Municipality to be chosen by the Meeting, and the Clerk of such Municipality shall act as Secretary; and it shall be the duty of the said Clerk to have with him the Assessment Rolls of the Municipality then in force, or certified copies thereof: The only question to be determined at such Meeting, shall be whether the majority of the Municipal Electors present thereat, do or do not approve of the said By-law; and when the question has been put, the person presiding shall declare whether in his opinion the majority is for the approval or disapproval of the By-law, and his decision if not forthwith appealed from, shall be final, and it shall forthwith be communicated to the Council of the Municipality which originated the By-law, by a certificate under the hand of the Secretary of the Meeting.

A Poll may
be demanded

6. Any six duly qualified Municipal Electors present at any such Meeting may appeal from the decision of the person presiding, and demand a Poll, and such Poll shall be granted by the person presiding at the Meeting, and shall be immediately taken by him, the Clerk of the Municipality acting as Poll Clerk: each Elector shall then present himself in turn to the person presiding, and shall give his vote "yea" or "nay"—the word "yea" meaning that he approves the proposed By-law, and the word "nay" that he disapproves the same:—but no person's vote shall be received unless he appears by the Assessment Rolls to be a duly qualified Municipal Elector.

Adjourn-
ment of Poll.

7. The person presiding may, if necessary, adjourn the Poll at sunset on the day of meeting, until ten o'clock in the forenoon of the following day, not being a Sunday or statutory holiday, when the Poll shall be continued as on the first day, but shall be closed at sunset of such second day;—it shall be closed at any time on the first or second day if one half hour shall elapse without a vote being offered.

Close of the
Poll.

8. At the close of the Poll the person presiding shall count the "yeas" and the "nays," and ascertain and certify for the information of the Council which originated the By-

law, whether the majority is for the approval or the disapproval of the said By-law; and such certificate shall be countersigned by the Clerk of the Municipality acting as Secretary of the Meeting and kept by him, with the Poll List, among the records of his office, and a duplicate thereof transmitted to the County Clerk if the By-law originated with a County Council.

9. If the By-law to be considered be a By-law of a County Council, the meeting to consider the same, or the poll of the electors, shall not be held for the whole County at one place, but such meeting or poll shall be held in each of the several Municipalities of such County respectively; and the question whether the By-law shall be approved or disapproved, either by the majority of the total number of electors voting "yea" or "nay" in the whole County, or by the majority of votes of Municipalities approving or disapproving of the same, giving to each Municipality one or two votes, according as it is by law authorized to return a Reeve or a Reeve and Deputy Reeve to the County Council of such County, in which case each Municipality shall be held to have voted for the approval of the By-law, if the majority of electors voting at the meeting held therein shall have voted "yea," and to have voted for the disapproval thereof if the majority of such electors shall have voted "nay;" and each such County Council shall make a By-law to provide which of the two modes of decision shall be adopted, and shall also thereby declare the manner in which the decision of each Municipality, or of the electors thereof, shall be made known to the County Clerk.

By-law of a
County
Council.

10. If such By-law be disapproved by the majority of the Electors (or of the Municipalities) as aforesaid, the Council shall not proceed to pass the same, but if it be approved by such majority, and afterwards passed by the Council, then such By-law, and all the provisions thereof shall be subject to the approval of the Governor in Council, and shall have no force until such approval shall have been given; but shall not be subject to the special provisions made by the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, or by any Act amending the same, concerning By-laws creating debts, or to any provisions or formalities, except those prescribed by the said Acts with regard to By-laws generally, and those prescribed by this Act; and every such By-law, when submitted to the Governor in Council for his approval, shall contain a recital that it has been approved by a majority of the duly qualified Municipal Electors (or of the Municipalities) of (or in) the Municipality, at a meeting (or meetings), called and held in conformity to the requirements

If disapproved;

If approved;

Governor
General to
approve.

of this Act, and such recital shall for all the purposes of this Act be conclusive proof of the facts therein stated, nor shall any such By-law, or any thing done under it, be invalidated by any error of fact or incorrectness in such recital; but this provision shall not affect the responsibility of those who may have wilfully concurred in any mis-statement of fact in such recital.

Information
to be fur-
nished to
Governor.

11. Before such By-law shall be approved by the Governor in Council, proof shall be made to his satisfaction, that the By-law was published and notice given as hereinbefore required, and he shall be furnished with a statement certified under oath by the Treasurer of the Municipality, shewing the amount of taxable property therein according to the then last Assessment Roll or Rolls, and a true account of all the debts and liabilities of the Municipality and of its expenditure for every purpose, for the then last year.

Governor in
Council may
demand
further in-
formation
from Muni-
cipality.

3.—*And be it, &c.,* That it shall be lawful for the Governor in Council to require from the Municipality by the Council whereof any such By-law shall have been passed, all such documents and information as he may think necessary for ascertaining the expediency or in expediency of such By-law, or any of the provisions thereof, and the same shall be furnished accordingly by the proper Officers of such Municipality, and no such By-law shall be repealed, amended or altered, otherwise than by another By-law approved in like manner by the Governor in Council, and to which all the provisions of this Act shall apply, as to the original By-law.

Receiver-
General to
issue Deben-
tures, &c.

1. So soon as the By-law shall have been approved as afore-said, it shall be lawful for the Receiver General to raise by loan, by Debentures issued by him upon the credit of the said Consolidated Municipal Loan Fund, a sum of money not exceeding that authorized by such By-law, and to pay over such sum to the Treasurer of the Municipality, or to deliver to him, or to his order, Debentures secured upon the said Fund to a like amount, or to pay part of such sum in money to the Treasurer, and to deliver to him Debentures for part; and in any case, he shall enter the amount for which Debentures are issued and delivered, to the debit of the Municipality as so much due by it to the said Fund.

Where
payable and
form of.

2. The principal and interest of the Debentures so issued may be made payable at any place within or without this Province in currency or in sterling money or in the currency of the place where they shall be made payable; and such Debentures shall be in such form as the Governor in Council shall direct, subject to the following provisions:

3. They shall express upon their face the Provincial Government undertakes to pay the principal sum mentioned in them and the interest thereon, out of the monies forming part of the said Consolidated Municipal loan fund, and out of no other monies or funds whatsoever : How worded

4. The principal shall be made payable at the time provided by the by-law, and the debentures shall contain no provisions inconsistent with the by-law by which the loan is authorized, and they shall contain all such provisions as may be necessary to carry out the intentions of such by-law : To conform with By-laws

5. The rate of interest upon them shall in no case exceed six per centum per annum, and such interest shall be made payable half-yearly on each days in each year as shall be therein appointed for the purpose ; but if any debenture be issued within the three months next before any such day, then the first interest thereon may be made payable on that one of the half-yearly days which shall come next after the expiration of three months from the date of its issue : Rate of interest and terms at which payable.

6. They shall be for even sums of money, and no debenture shall be for a less sum than twenty-five pounds, or the equivalent thereof. To be for even sums.

7. They shall contain such conditions as the Governor shall from time to time, by order in Council, direct to be inserted therein, as to the right of the Receiver General to call such debentures or any of them in for payment before the time therein absolutely appointed for the payment of the principal, the manner in which they shall be so called in,—and in which it shall be determined which of such debentures shall be so called in at any time, if they be not all called at the same time ; and no interest shall be payable upon any debenture which shall have been called in according to such conditions as aforesaid, for any period after the day on which it shall have been required to be presented for payment, which day shall always be one of those on which interest is payable on such debenture and this forfeiture of interest in the case last mentioned shall be expressed on the face of the debenture. To contain provisions as to calling them in.

8. It shall not be necessary that any debenture should show upon what by-law or with reference to what Municipality it was issued, but each debenture shall be distinguished by a number by which it shall be known and referred to. Debentures to be numbered.

9. The Governor in Council may direct that any such debentures may on the application of the holders thereof be exchanged for another or others for the same amount of principal, payable absolutely at the same or any later date, and bearing the same or any less rate of interest. Exchanging Debentures.

Debentures
to be as
Government
Debentures.

10. The said debentures shall be held to be debentures issued by the Government of this Province through the Receiver General thereof, within the meaning of the Act to establish freedom of Banking, or any Act amending the same, and of the Act to exempt the several chartered Banks from the tax on their circulation on certain conditions, and shall be available accordingly for all the purposes of the said Acts or either of them, and any monies which are by law directed to be invested by or under the directions of the Governor in Council, may be invested in such debentures.

Advances to
the said fund
from the
Upper Can-
ada Building
Fund.

4.—*And be it, &c.*, That it shall be lawful for the Governor in Council from time to time, and when it shall be necessary to enable the said Consolidated Municipal Loan Fund, to meet the charges upon it, to direct the Receiver General to advance to the said fund, out of any unappropriated monies forming part of the fund arising out of monies levied or to be levied under the authority of the Act passed in the session held in the 13th and 14th years of Her Majesty's Reign, and intituled, *An Act to provide funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*; and known as the Upper Canada Building Fund, such sum as may be deemed expedient, and in like manner to direct the repayment of such sum from the said Consolidated Municipal Loan Fund to the said Upper Canada Building Fund.

Account to
be kept by
Receiver
General with
the Municip-
ality.

5.—*And be it, &c.*, That the Receiver General and the Treasurer of the Municipality, shall respectively keep a correct account between the Municipality and the said Consolidated Municipal Loan Fund, debiting the Municipality with the principal of each debenture issued for its purposes, and with the interest thereon as the same becomes due, and any other expenses or liabilities incurred by reason of such debentures, and crediting it by the sums paid over to the Receiver General to meet such principal and interest, by the proportionate share of the Municipality in the proceeds of any monies forming part of the sinking fund hereinafter mentioned and invested by the Receiver General, and by any other sums received by him on account of the Municipality; and it shall be the duty of the Receiver General, three months before each day in each year in which interest or principal will be payable on the debentures issued for the purposes of any Municipality, to notify to the Treasurer thereof, by letter sent by Post, the sum which he will, under the provisions of this Act, be required to pay over to the Receiver General by reason of such debentures, which sum it shall be the duty of such Treasurer to pay over

accordingly; but the failure on the part of the Receiver General to give such notice shall not affect the obligation of the Treasurer or of the Municipality, to pay over such sum at the time when it ought to be so paid over.

1. The sum to be so paid at any time by the Treasurer for his Municipality shall be at the rate of eight per centum per annum on the amount of the Debentures issued for the Loan in respect of which the payment is made, for the period of which the payment shall relate, and such further sum as may be payable on the day in question for or on account of the principal of such Debentures, less such sum applicable to the payment of such principal as may then stand at the credit of the Municipality in account with the said Fund: and such payments shall continue to be made until all such Debentures shall be paid off in principal and interest, or until there be a sufficient sum at the credit of the Municipality to pay off the same.

Payments to be at the rate of 8 per cent. per annum on the Loan, &c.

2. If the Treasurer shall have any of such Debentures in his hands as the property of his Municipality, then the proper Coupons for interest on such Debentures may be taken from him by the Receiver General as money.

Coupons to be taken as money.

4. The difference between the said rate of eight per cent and the actual interest payable on the Debentures, and all other monies which shall come into the hands of the Receiver General as part of the said Fund, and shall not be required to pay the interest of Debentures chargeable upon it, shall form a Sinking Fund, and shall be from time to time invested by the Receiver General under the direction of the Governor in Council, and the amount thereof shall, with the proceeds of such investment (which shall also form part of the said Sinking Fund) be applied under such direction as aforesaid, to the redemption of Debentures issued on the credit of the said Municipal Loan Fund; and each Municipality shall be credited with a share of the said Sinking Fund equal to the amount of the sums it shall have paid into the same, and with a share of the proceeds of any part of the said Fund invested by the Receiver General proportionate to the sums it shall have paid into the same and the time during which such sums shall have remained in the said Sinking Fund, and such share shall be accordingly applied to the redemption of the Debentures issued for the purposes of such Municipality: and each Municipality shall be debited with all sums paid out of the said Sinking Fund on its account.

Sinking Fund constituted: of what it shall consist.

Share of each Municipality in Sinking Fund.

4. It shall be lawful for the Receiver General to pay the interest on any Debenture out of the said Sinking Fund, if in any case

Certain payments may

be made
out of it.

the other monies at his disposal for the purpose shall be insufficient, repaying the amount so paid with interest, to the said Sinking Fund, out of the monies which would otherwise be applicable to the payment of such interest so soon as the same shall come into his hands.

Securities
forming part
of it may be
sold.

5. It shall be lawful for the Receiver General from time to time to sell, pledge or otherwise dispose of any securities in which any part of the Sinking Fund may have been invested in case it shall be necessary so to do in order to enable him to pay any sum which is hereby made payable out of the said Sinking Fund.

Duty of the
Treasurer
and Officers
of the Muni-
cipality after
the passing
of any such
By-law in
levying
money to
meet pay-
ments to be
made in con-
sequence
thereof.

6.—*And be it, &c.*, That whenever a By-law authorising the raising of money by loan, under this Act, shall have been passed by the Council of any Municipality, and approved by the Governor in Council, the Treasurer of such Municipality shall *ipso facto*, and without requiring any other authority or direction whatever, have full power, and it shall be his duty, before the making out of the ordinary Collectors' Rolls in each year, if the By-law shall then be in force, and if not, then at least three months before the earliest day on which interest can be payable on any Debenture issued under such By-law, to ascertain the highest sum which can be required during the year, to pay the interest (and the principal if any be payable,) on or of Debentures issued or to be issued under such By-law, and to add five per centum thereunto for losses and expenses, and to certify the amount in a notice to the Clerk of the Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the portion payable by the same; and it shall be the duty of such Clerk to assess the amount so certified equally upon all the taxable property in his Municipality, and to set down on the ordinary Collector's Roll for the year, if it shall not have been previously delivered to the Collectors, the amount with which each party or his lot is chargeable, under the head of "Loan Rate for (*naming the purpose*)," or "County Loan Rate for (*naming the purpose*)," as the case may be; and if such amount shall be so certified to any such Clerk after the time in any year when the Collectors' Rolls shall have been delivered to the Collectors, then such Clerk shall forthwith make out a special Collectors' Roll for the purpose in the form prescribed for ordinary Collectors' Rolls, so far as such form may be applicable, and shall deliver the same to the Collector: *Provided always*, that if there be in the hands of the Treasurer at the time of his giving such notice as aforesaid to the Clerk of the Municipality, any

Proviso.

monies applicable to the payment of the principal or interest of the Debentures to which such notice refers, then the Treasurer may deduct such sum from that to which the notice refers before adding the five per cent thereto ; *And provided also*, that if the purpose for which the loan is raised be such as to produce profit or to yield returns in money to the Municipality, or if the money be loaned by it so as to produce interest, or if the capital be reimbursable to the Municipality, then it, shall be lawful for the Treasurer and the Mayor, or Head of such Municipality to enter upon the Books of the Corporation a Certificate signed by them in the form of the Schedule A. setting forth that there ought to be paid to the Municipality during the course of the year, such dividends or profits (*describing them*) or such interest or sums of money (*mentioning the amount*) or both (*as the case may be*), and that the said Treasurer and Mayor have reason to believe and do believe that the sums which will, from the said sources, come into the hands of the Treasurer during the year, will amount to the sum of (*naming it*) and the Treasurer may then deduct the sum mentioned in such Certificate from that to which the notice refers, before adding the five per cent as aforesaid, or if the sum mentioned in the Certificate be as great or greater than that to which the notice would refer, then no notice shall at that time be given to the Clerk or Clerks of the Municipality or Municipalities concerned.

Proviso.

If the money borrowed be so invested as to produce returns.

1. If the nett sum raised by any such rate as last aforesaid be greater than that required to enable the Treasurer to pay the Receiver General, the surplus shall remain in the hands of the Treasurer and be applicable to payments to be made to the Receiver General for the next ensuing year, on account of the same loan ; and if the nett sum raised be insufficient to enable the Treasurer to pay the required sum to the Receiver General, then a new assessment shall be made as hereinafter provided in cases of deficiency.

If any surplus be raised.

If there be a deficiency.

2. All sums of money coming to the Municipality as the said profits, dividends or returns from any work for which the loan shall have been authorized, or as interest or principal of any sum lent by the Municipality out of such loan, or otherwise howsoever by reason of such loan, shall be paid into the hands of the Treasurer and by him carefully kept apart from all other moneys, and paid over from time to time to the Receiver General, to be by him placed to the credit of the Municipality with the said Consolidated Municipal Loan Fund, except in so far as it shall be otherwise especially provided in the By-law authorizing such loan.

All profits from works, &c., to go to the said fund.

Proceeding
for levying
money in
case the
Treasurer
shall not
have funds
to make his
payments to
the Receiver
General.

3. If it shall happen that the sum which ought under this Act to be paid over at any time by the Treasurer of any Municipality to the Receiver General, or any part of such sum, shall not be so paid over, and the Treasurer shall not have money in his hands applicable to the same, or if it shall happen that the Treasurer shall foresee that he will not have the means of paying over such sum or part thereof to the Receiver General, at the time when it ought to be so paid over, then in either case it shall be the duty of such Treasurer forthwith to add five per centum to the sum wanting for such purpose, and to certify the same to the Clerk of his Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the amount payable by the same, and it shall be the duty of each Clerk receiving such notice forthwith to make out a Special Collectors' Roll for the amount so certified to him, and to deliver the same to the Collectors.

Interest to
be charged
to Municipality
in
default.

4. If any sum payable as aforesaid at any time by any Treasurer to the Receiver General, be not so paid at such time, interest shall by the Receiver General be charged on such sum for the time it shall remain unpaid, against the Municipality in account with the said Consolidated Municipal Loan Fund, and deducted from the share of such Municipality in the Sinking Fund.

Monies to be
collected in
the usual
manner.

5. The sums entered in any Collector's Roll by any Clerk of a Municipality shall be collected and levied, and payment thereof secured and enforced in like manner and under the same provisions as other Municipal taxes, but the nett proceeds thereof shall be applied by the Treasurer solely to the purpose for which they are directed to be raised.

Warrant to
the Sheriff to
levy upon
Municipality
in default
more than
three
months.

7.—*And be it, &c.,* That if any sum of money which ought under this Act to be paid by the Treasurer of any Municipality to the Receiver General, shall remain unpaid during three months or upwards after it ought to have been so paid, then upon the Certificate of the Receiver General that such sum is so due and unpaid, and since what day it has been so, it shall be lawful for the Governor to issue his Warrant to the Sheriff of the county reciting the facts, and commanding him forthwith to levy such sum by rate, with interest from the said day and all costs, and to pay over the said sum and costs to the Receiver General, and the said Sheriff shall obey the said Warrant and levy the sums therein mentioned in like manner and within the same delay as he would levy the same if it had been recovered against the Municipality under a judgment of the proper Court of law, and a Writ of Execution had issued

thereupon directed to him and commanding him to levy the same by rate, and shall pay over the nett proceeds to the Receiver General; and the costs allowed to the said Sheriff for executing the said Warrant shall be the same as those to which he would be entitled for executing a Writ of Execution for a like sum.

8.—*And be it, &c.*, That after any Municipality shall have borrowed any money under this Act, it shall not be lawful for such Municipality to contract any further debt without the consent and approval of the Governor in Council, until all debts contracted by it under this Act shall be wholly paid off.

Further debt not to be contracted without sanction of Governor in Council.

9.—*And be it, &c.*, That this Act and all the provisions thereof shall extend and apply to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act shall come into force, for the purpose of aiding in the construction of any Railway for the making of which any Company is now incorporated, or shall be under any Act passed or to be passed during the present Session whether such assistance be given by taking Stock in such Company or by loaning money to it, and also to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act comes into force, authorizing the raising of any Loan for the purpose of erecting, repairing or improving any County building or buildings: *Provided always*, that such Loan shall not have been negotiated by the Municipality under such By-law.

Operation of Act.

10.—*And be it, &c.*, That the word "Treasurer," in this Act, shall include the Chamberlain of any City; the word "Mayor" shall include the Warden of any County, and the official title of any Officer shall include any person by whom his duties may be legally performed; and that this Act shall apply only to Municipalities in *Upper Canada*.

Interpretation.

Extended to Lower Canada by 18 Vic. c. 13.

SCHEDULE A.

CERTIFICATE OF TREASURER AND MAYOR, OR HEAD OF A MUNICIPALITY.

Municipality of the *Township* of ———

We certify to all whom it may concern, that out of the Loan, raised under the By-law, No. ———, intituled, "*(Title of By-law,)*" on the credit of the Consolidated Municipal Loan Fund, there has been invested the sum of ——— in shares of the stock of the *Bytown and Prescott Railroad Company* (or as the case may be); that this Municipality now holds the said shares; that there ought to be paid dividends thereon during the present year, and that we have reason to believe

and do believe that there will be paid into the hands of the Treasurer, as and for such dividends, before the thirty-first day of December now next, the sum of —, which sum, we think, ought therefore, under the provisions of the Act passed, &c., (*title and date of this Act*), to be deducted from the sum which ought otherwise now to be raised on the taxable property in this Municipality in order to enable the Treasurer to meet the payments which he is to make to the Receiver General during the present year, on account of the said Loan. Witness our hands this — day of —, 18—.

Signatures, _____ A. B., Treasurer.
C. D., Mayor.

16 VIC.—CAP. 31.

An Act to authorize the Governor General to issue a Proclamation to declare the County of Perth to be separated from the United Counties of Huron Perth and Bruce, and for other purposes therein mentioned.

[10th November, 1852.]

Section 1 authorizes the Governor General to issue a Proclamation separating Perth from Huron and Bruce, which has been done.

Section 2 authorizes the Governor General to fix the boundaries of the Township of Brighton: and

Section 3 authorizes the Governor General to divide St. Patrick's Ward in the City of Toronto into two Wards which has been done.

16 VIC.—CAP. 32.

An Act to authorize the City of Kingston to negotiate a Loan of Seventy-Five Thousand Pounds to consolidate the City Debt, and for other purposes.

[10th November, 1852.]

Preamble.

WHEREAS the City of Kingston have petitioned to be authorized by law to borrow on the debentures of the said City, a sum not exceeding seventy-five thousand pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer of the said petition should be granted: *Be it, &c.*, That it shall and may lawful to and for the Corporation of the City of Kingston, to raise by

City of King-
ston autho-

Loan upon the credit of the debentures hereinafter mentioned from any person or persons, body or bodies corporate, either in this Province,* in Great Britain, or elsewhere, who may be willing to lend the same, a sum of money not exceeding the sum of seventy-five thousand pounds of lawful money of Canada.

rized to
borrow
£75,000 on
Debentures.

2.—*And be it, &c.,* That it shall and may be lawful for the Mayor of the said City of Kingston for the time being, to cause to be issued debentures of the said City, under the Corporation seal, signed by the Mayor and counter-signed by the Chamberlain of the said City for the time being, in such sums not exceeding in the whole the said sum of seventy-five thousand pounds, as the Common Council shall direct and appoint and that the principal sum secured by the said debentures and the interest accruing thereon, shall be made payable either in this Province, in Great Britain or elsewhere, as the said Common Council shall deem expedient or necessary.

Form of
Debentures.

3.—*And be it, &c.,* That so much of the said Loan so to be raised as aforesaid, as shall be necessary for the purpose, shall be applied by the said City of Kingston, in the payment of the debt due or to become due on account of the English loan of twenty thousand pounds, sterling; the debt due the Commercial Bank of the Midland District, amounting to fourteen thousand pounds, currency, or thereabouts, and all such promissory notes, debentures and other debts as are now due and payable, including the sum of two thousand five hundred pounds hereinafter mentioned, and the remainder of the said loan, after paying off all the debts due by the said City, shall be applied in aid of any Railways and macadamized Roads now or hereafter to be constructed, and leading to or from the City of Kingston, and for no other purpose whatever.

Part of the
said loan
appropriated
to certain
purposes.

4.—*And be it, &c.,* That the funds derived from the negotiation of the said debentures so to be appropriated as aforesaid, shall, when received, be deposited by the Chamberlain of the said City for the time being, in the Commercial Bank of the Midland District at Kingston, on such conditions as the said Common Council shall from time to time agree upon, and only to be withdrawn therefrom as they may from time to time be required for the payment and redemption of the said promissory notes, debentures and debts in the next preceding section of this Act mentioned.

Moneys
raised to be
deposited in
Commercial
Bank until
required.

5.—*And be it, &c.,* That the sum of two thousand five hundred pounds of the said loan so to be raised as aforesaid, shall be specially applied in payment of one hundred shares in

£2,500 to be
applied to
pay for cer-
tain railroad
shares.

the capital stock of "The Wolfe Island Railway and Canal Company," for which debentures have been given under authority of a By-law of the Common Council of the said City made in that behalf.

Council empowered to repeal a certain By-law.

6.—*And be it, &c.,* That for and notwithstanding any provision, clause, matter or thing contained in any Act of Parliament of this Province to the contrary, it shall and may be lawful for the Common Council of the said City of Kingston, after having called in the debentures described in the next preceding section, to repeal the By-law authorizing the same, and declaring the levy of a special tax for the payment thereof and also to repeal a certain other By-law of the said Common Council, if they shall see fit so to do, providing for the issue of debentures to the amount of one thousand pounds, for the improvement of "Division" and other streets, and levying a rate for the said one thousand pounds; and for the payment, satisfaction and discharge of the debentures issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City in a By-law to be passed authorizing the said loan of seventy-five thousand pounds, or any part thereof, and the issuing of the debentures therefor, to impose a special rate per annum to be called "the Consolidated Loan Rate," over and above, and in addition to all other rates to be levied in each year, which shall be sufficient to form a Sinking Fund of two per cent per annum for that purpose.

And to impose a special rate to form a Sinking Fund.

Sinking Fund how to be invested and managed.

7.—*And be it, &c.,* That it shall be the duty of the Chamberlain of the said City of Kingston, from time to time, to invest all sums of money raised by special Rate for the Sinking Fund provided in the next preceding section, either in the debentures to be issued under this Act, or in any debentures to be issued by the Government of Canada, or in such other securities as the Governor of this Province shall, by order in Council, direct or appoint, and to apply all such dividends or interest on the said Sinking Fund to the extinction of the debt created under this Act.

By-law authorizing the loan not to be repealed until the loan be paid off.

8.—*And be it &c.,* That any By-Law to be passed under the sixth section of this Act, authorizing the said loan of seventy-five thousand pounds, or any part thereof, shall not be repealed until the debt created under this Act and the interest thereon shall be paid and satisfied, and that the one hundred and seventy-eight section of the Municipal Corporations Act of Upper Canada shall extend to any By-law passed under this Act.

16 VIC.—CAP. 33.

An Act to vest in the Corporation of the City of Hamilton, the "Gore" of King Street, for public purposes.

[10th November, 1852.]

WHEREAS in the original survey of the City of Hamilton, a vacant space of triangular form, and known as "the Gore" of King Street, was left for the purposes of a Public Square: *And whereas* the Mayor, Aldermen, and Commonalty of the City of Hamilton have, by their Petition, prayed that authority may be given them to erect public buildings on the said land, or otherwise enclose, ornament, or dispose of the same as to them in their discretion may seem meet: *And whereas* it is expedient to grant the prayer of the said Petition: *Be it, &c.*, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Hamilton and their successors, and they are hereby empowered to erect and build upon the said piece of land (which is bounded on the west by James Street, and on the East by Catherine Street) such public building or buildings as they may think necessary, or to enclose the same for the purposes of a Public Square, and to ornament and improve it for such purposes, or otherwise to use and dispose of the said tract of land as the said Mayor, Aldermen, and Commonalty of the City of Hamilton may in their discretion think most advisable: *Provided always*, that nothing in this Act contained shall in any manner affect or prejudice any claim which Robert J. Hamilton, eldest son and heir-at-law of the late George Hamilton, shall or may have in law or equity to the piece or parcel of land above described; and in the event of the said Robert J. Hamilton advancing any claim for compensation in consequence of this Act or anything to be done thereunder, the amount thereof shall be fixed and determined by arbitrators to be chosen one by the said Corporation, another by the said Robert J. Hamilton, and a third to be named by them, the said arbitrators, before entering into the said reference, and their award or the award of any two of them shall be final: *Provided also*, that nothing in this Act contained, shall be construed as an admission of any claim or right in the said Robert J. Hamilton in the said tract of land.

Preamble.

Corporation of Hamilton may enclose the Gore.

Proviso: as to any right of R. J. Hamilton.

Further proviso.

16 VIC.—CAP. 34.

An Act to separate the Township of Romney from the Township of East Tilbury, and to erect the said Townships into independent Corporations.

[10th November, 1852.]

WHEREAS the union of the Townships of East Tilbury and

Preamble.

Union dissolved on and after 1st January, 1853.

Romney is most inconvenient for the inhabitants of Romney, the two Townships being separated by an extensive marsh, and no mutual local interest existing between them : *Be it, &c.*, That upon, from and after the first day of January, one thousand eight hundred and fifty-three, the union of the said Townships shall be dissolved, and each of them shall be separate Municipality by itself, notwithstanding that either of them may not then have one hundred resident freeholders and householders on the Collectors' Roll ; and that all the provisions of law in that behalf shall apply to the said Townships, as if they had been separated in consequence of each of them having been found to contain one hundred resident freeholders and householders on the Collectors' Roll.

16 VIC.—CAP. 36.

An Act to legalize and continue the Municipal Corporation of the Township of Torbolton.

[10th November, 1852.]

Preamble.

WHEREAS there are within the county of Carleton conflicting opinions as to whether the Township of Torbolton, in the said county, is or is not under the provisions of the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, the Upper Canada Municipal Corporations Law Amendment Act of one thousand eight hundred and fifty, and the Upper Canada Municipal Corporations Law Amendment Act of one thousand eight hundred and fifty-one, a lawfully constituted Municipal Corporation by itself ; And whereas for divers reasons it is the unanimous wish of the Council of the said County, as set forth in the Petition from said Council to the Provincial Parliament in its present Session, that the said Township of Torbolton should be legalized and continued and constituted beyond all doubt a Municipal Corporation by itself, enjoying the same rights and performing the same functions as the several other Municipal Corporations of Townships within the said County : And whereas it is expedient and necessary for the safe government of the said County and of the said Township that all doubts on the above subject should be removed : *Be it, &c.*, That the said Township of Torbolton is and shall be and shall have been a Municipal Corporation by itself ; and all acts and deeds hitherto done by the Municipality of the said Township in their character as such, as also all acts and deeds hitherto done whether by the Municipality of the adjoining Township of March as a Municipality, or by the County Council of the

Township of Torbolton declared to be and to have been a Municipal Corporation.

County of Carleton arising from the assumption of Torbolton to municipal jurisdiction, shall be held to be as valid and effectual as the acts and deeds done by any other Municipality within the same County, not otherwise unlawful: *Provided always*, that this Act shall not be pleaded in any suit at law or in equity begun or pending before the passing of this Act. Proviso.

16 VIC.—CAP. 95.

An Act to authorize the City of Hamilton to negotiate a loan of Fifty Thousand Pounds to consolidate the City Debt, and for other purposes.

[Assented to 22nd April, 1853.]

WHEREAS the Corporation of the City of Hamilton have petitioned to be authorized by law to borrow on the Debentures of the said City, a sum not exceeding Fifty Thousand Pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer of their said petition should be granted: *Be it, &c.*, That it shall and may be lawful to and for the Mayor, Aldermen, and Commonalty of the City of Hamilton, to raise by way of loan upon the credit of the Debentures hereinafter mentioned, from any person or persons, body or bodies corporate, either in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding the sum of Fifty Thousand Pounds of lawful money of Canada. Preamble.

2.—*And be it, &c.*, That it shall and may be lawful for the Mayor of the said City of Hamilton for the time being, to cause to be issued Debentures of the said City, under the Corporation seal, signed by the Mayor and countersigned by the Chamberlain of the said city for the time being, in such sums not exceeding in the whole the said sum of Fifty Thousand Pounds, as the Common Council shall direct and appoint, and that the principal sum secured by the said Debentures, and the interest accruing thereon, shall be made payable either in this Province, in Great Britain, or elsewhere, as the said Common Council shall deem expedient or necessary. Corporation may raise £50,000 on Debentures.

3.—*And be it, &c.*, That so much of the said Loan so to be raised as aforesaid, as shall be necessary for the purpose, shall be applied by the said the Mayor, Aldermen and Commonalty of the said City of Hamilton, in the payment of the Debt due on the Market Ground, amounting to about Seven Thousand Five Hundred Pounds; on the Central School, amounting to about Seven Thousand Five Hundred Pounds; Debentures to be issued under the corporate seal.

Applications of certain portions of the money raised.

Remainder
to any public
purpose.

and to the Gore Bank, amounting to about Five Thousand Pounds; and the remainder of the said loan shall be applied in aid of any public improvements now or hereafter to be erected or constructed in the said City.

Sinking
Fund of two
per cent. per
annum to be
provided.

4.—*And be it, &c.*, That for the payment, satisfaction and discharge of the Debentures to be issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City of Hamilton, and they are hereby required so to do, in any By-law or By-laws to be passed authorizing the said Loans or either of them and the issuing of the Debentures therefor, to impose a special rate per annum over and above and in addition to all other rates to be levied in each year, and over and above the interest to be payable on such Debentures, which shall be sufficient to form a Sinking Fund of two per cent. per annum for that purpose.

Investment
and applica-
tion of Sink-
ing Fund.

5.—*And be it, &c.*, That it shall be the duty of the Chamberlain of the said City of Hamilton, from time to time, to invest all sums of money raised by special rate for the Sinking Fund provided in this Act, either in the Debentures provided for by this Act or in any Debentures issued by the Government of Canada, or in such other securities as the Governor of this Province shall, by order in Council, direct or appoint, and apply all dividends or interest on the said Sinking Fund to the extinction of the debts created by this Act.

By-law not
to be repeal-
ed so long as
any debt
under it
shall remain
unpaid, &c.
See 22 Vic.
c. 99, s. 228.

6.—*And be it, &c.*, That any By-law to be passed under this Act shall not be repealed until the debt or debts created by this Act and interest thereon shall be paid and satisfied, and that the *one hundred and seventy-eighth* section of the Municipal Corporations Act of Upper Canada shall extend to any By-law passed under this Act.

Corporation
may in like
manner raise
a further
sum not
exceeding
£50,000, to
pay for 2000
shares in the
Great West-
ern Railway
Company.

7.—*And be it, &c.*, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Hamilton, if they should deem it for the interest of the said city, to raise by way of Loan upon the credit of Debentures similar to those hereinbefore mentioned, from any person or persons, body or bodies corporate, either in this Province, in Great Britain, or elsewhere, who may be willing to lend the same, a further sum of money not exceeding the sum of Fifty Thousand Pounds of lawful money of Canada, and which last mentioned sum of money shall be applied in payment of two thousand Shares of the Capital Stock of the Great Western Railroad Company, lately purchased by the said City of Hamilton; and the Chamberlain of the said city is hereby authorized and empowered on receiving instructions so to do from

Debentures
under this
Act may be

the said Common Council, and with the consent of the holders thereof, to call in such Debentures of the City of Hamilton as may have heretofore been issued under any By-law of the Common Council of the said city, and taken in payment of such stock, and to substitute therefor so much of the funds received on account of the Debentures to be issued under this section, as may be necessary for that purpose.

substituted
for those
heretofore
issued in
payment of
the said
stock.

8.—*And be it, &c.*, That for and notwithstanding any provision, clause, matter or thing, contained in any Act of Parliament of this Province to the contrary, it shall and may be lawful for the Common Council of the said City of Hamilton, after having called in the Debentures described in the next preceding section, to repeal the by-law of the said Council passed on the twenty-ninth day of August, one thousand eight hundred and fifty, authorizing the levy of a special rate for the purpose of paying and satisfying certain Debentures issued or to be issued, in favor of the said Great Western Railroad Company, or payment of the said Stock.

A certain
By-law may
be repealed
when the
Debentures
last men-
tioned are
called in.

9.—*And be it, &c.*, That the funds derived from the negotiation of the Debentures to be issued under this Act, shall, when received, be deposited by the Chamberlain of the said city for the time being, in some one or more of the chartered banks of this Province, on such conditions as the said Common Council shall from time to time agree upon, and only be withdrawn therefrom as they may from time to time be required for the payment of the Debentures, debts and liabilities mentioned in this Act, and to discharge the liabilities that may be incurred in carrying out the improvements contemplated by this Act.

Moneys
raised under
this Act,
where to be
deposited,
&c.

10.—*And be it, &c.*, That this Act shall be a Public Act. Public Act.

16 VIC.—CAP. 96.

An Act to separate the Township of Georgina from the County of Ontario, and annex it to the County of York.

[Assented to 22nd April, 1853.]

WHEREAS the inhabitants of the Township of Georgina, in the County of Ontario, have by their petition and by the petition of their Municipality, prayed that the said township may be disunited from the said county, and may be annexed to the County of York, and it is right and expedient to grant the prayer of the said petition: *Be it, &c.*, That from and after the passing of this Act, the Township of Georgina, in the County of Ontario, shall be disunited from the said county,

Preamble.

Township of
Georgina
annexed to
County of
York.

and shall be annexed to and form part of the County of York for all purposes whatsoever.

Recital.

A certain debt to be borne wholly by the County of Ontario.

2.—And whereas the Provisional Municipal Council of the said County of Ontario, has, for the erection of county buildings, contracted a debt the greater part of which is yet unpaid; And whereas the said Township of Georgina has not been and will not in any wise be benefited by the erection of the said county buildings: *Be it, &c.*, That no part of the said debt shall be charged upon the said Township of Georgina, nor on the said County of York, but shall be wholly borne by the said County of Ontario; any law to the contrary notwithstanding.

16 VIC.—CAP. 97.

An Act to authorize the Municipal Council of the Town of Amherstburg, to sell the Site of the old Market in that Town.

[Assented to 22nd April, 1853.]

Preamble.

Recital.

WHEREAS by Letters Patent, under the Great Seal of the Province of Upper Canada bearing date the thirteenth day of June, in the year of our Lord one thousand eight hundred and twenty-two, all that parcel or tract of land situate in the Town of Amherstburg, in the County of Essex, containing by admeasurement, twelve thousand three hundred and seventy-five square feet, be the same more or less, and in the said Letters Patent described as being Lot number seven, formerly twenty-two, on the west side of Dalhousie Street, in the said Town, and which parcel or tract of land is butted and bounded, or may be otherwise known as follows, that is to say: commencing on the west side of Dalhousie Street, in the limit between lots numbers six and seven, and at the south-east angle of the said Lot number seven, then north nineteen degrees thirty minutes west, eighty-two and a half feet, to an alley twenty feet wide, between Lots numbers seven and eight, then north seventy degrees thirty minutes west, one hundred and fifty feet, more or less, to the River Detroit, then southerly along the water's edge to the limits between Lots numbers seven and six, then north twenty degrees thirty minutes east, one hundred and sixty feet, more or less, to the place of beginning,—was conveyed to certain persons in the said Letters Patent named, to hold in trust for the inhabitants of the said Town, as a Site for a Market-place, and to permit the Justices

of the Peace for the then Western District, to erect thereon suitable buildings for a Market for the convenience of the inhabitants of the said town, and in which Letters Patent it was further provided, that if the said parcel of land should be converted to the private use or advantage of the said Trustees, or become charged or chargeable with any debt or other incumbrance of the said Trustees, or if they should hinder or prevent the said Trusts being carried into effect, then those presents should cease and determine: And whereas by the said Letters Patent and a certain Act of the Parliament of the late Province of Upper Canada, passed in the first year of the reign of his late Majesty King William the Fourth, and chaptered three, the present Market in the said Town was duly established upon the said tract of land, which tract of land remained vested in the said Trustees, or the survivors of them, upon the Trusts aforesaid, until the Municipal Corporations Act of one thousand eight hundred and forty-nine, came into operation, by the one hundred and thirty-eighth Section of which it is enacted, That the places then already established as Markets or Market-places in the several Villages and Towns in Upper Canada, shall remain Markets and Market-places until otherwise directed by competent authority, and that all Market reservations or appropriations which at the time the said Act should come into force, were vested in the Municipal authority of such Village or Town, or in Trustees for their use and benefit, shall be and they are hereby vested in the Municipal Corporation of such Village or Town, erected under the said Act: And whereas the site of the Market is found to be inconvenient to the great majority of the inhabitants of the said town, who have petitioned the Municipal Council of the said town to sell or otherwise dispose of the said tract of land, and purchase another and erect a Market thereon, in a more central position, which the said Council are desirous of doing, but doubts have arisen whether the Municipality of the said town have the necessary powers in that behalf: *Be it, &c.*, That the said tract or parcel of land hereinbefore particularly described shall be and the same is hereby vested in the Municipality of the Town of Amherstburg, in fee simple, and free from all the trusts and provisions expressed in the said Letters Patent, and from all other trusts whatsoever; and it shall be lawful for the Municipality of the Town of Amherstburg aforesaid, and they are hereby authorized and empowered absolutely to grant, bargain, sell, lease or convey the said tract or parcel of land, or any part thereof, and all buildings thereon, in fee simple, for life, term of years or otherwise, as to the said Municipality may seem fit.

The tract of land in question vested in the Municipality of the Town, with full power to alienate it.

To what purpose the proceeds of the sale shall be issued.

2.—That the Municipality of the Town of Amherstburg, aforesaid, shall and may, and they are hereby required to apply the proceeds arising from any such sale, lease or conveyance, as aforesaid, or such portion thereof as may be required therefor, to the purchase of the land required for a site for a Market for the said Town, and to the erection of the necessary buildings thereon, and the completion of all improvements connected therewith.

A certain lane to remain open.

3.—That the lane or road now existing between the land, buildings and property of Thomas Park, Esquire, and the said tract, site and Market, shall always remain and be open as it now is, and shall not be stopped up without the consent of the said Thomas Park, his heirs and assigns.

Public Act.

4.—That this Act shall be a Public Act.

16 VIC.—CAP. 123.

An Act to explain and amend the Act intituled, "An Act to establish a Consolidated Municipal Loan Fund in Upper Canada."

[Assented to 23rd May, 1853.]

Preamble.

16 Vic. c. 22.

Sec. 9 of the said Act to apply to By-laws then passed or passing.

WHEREAS it was intended that the ninth section of the Consolidated Municipal Loan Fund Act should apply to By-laws passed or in course of being passed before said Act came into force for the purpose of aiding in the construction of any Railway, or for the improvement of any navigable River or other such work as provided for by the said Act: *Be it, &c.*, That the ninth section of the Act aforesaid shall be held to include any By-law for any of the purposes mentioned in the preamble to this Act which was passed before the said Act came into force, or which has been passed since the said Act came in force, but at the date of such Act was in the course of being passed.

Copy of such By-law to be sent to Receiver General.

2.—That before any such Municipality shall receive or be entitled to receive any money to be raised under the above recited Act, a true copy of the By-law under which the money is to be raised, together with affidavits of the Treasurer and Clerk of the Municipality verifying the same and such other information as the Governor in Council may require, shall be transmitted to the Receiver General.

If the By-law be approved certain rates need not be imposed or levied.

3.—That if the Governor in Council shall approve of such By-law, it shall not be necessary to impose or levy annually the sum or rate per pound which may have been fixed in such By-law to pay the principal and interest of the Loan, but such

sum only shall be levied and collected as may be necessary under the provisions of the sixth Section of the said in part recited Act, and all proceedings in connection with such Loan and By-law or for the recovery of any sum of money which ought to be paid thereunder, may be had and taken as if the said By-law had been passed for the purpose of raising money under the said in part recited Act and after the same came into force.

4.—That all Debentures which have been or can be issued under the authority of such By-laws as are referred to in the first Section of this Act, shall be deposited with the Receiver General before the Municipality shall be entitled to receive any of the money to be raised under any such By-law, and upon payment by the Municipality of the whole amount which shall be payable in respect of the said Loan, such Debentures shall be cancelled and destroyed in such manner as the Governor in Council shall direct; *Provided always*, that the money to be raised under any such By-law shall be paid by the Receiver-General only on the joint order of the Head of such Municipality and the President of the Company entitled to receive the same; *Provided also*, that when any such By-law shall have been passed by the Council of any Union of Counties, and such Union shall at any time be dissolved after the passing of such By-law, the several Counties of which such Union of Counties was composed, shall continue to be liable in respect of the Loan raised under such By-law as fully and effectually to all intents and purposes as if such Union had not been dissolved, and the Sheriff of the Senior County shall have power within every county which at the time of the passing of such By-law formed part of such former Unions of Counties, to levy any rate which he may be required to collect under the seventh Section of the said in part recited Act, in the same manner as if such Union of Counties had not been dissolved; *Provided also*, that in case of any dissolution of a Union of Counties as aforesaid, the order hereinbefore mentioned shall be signed by the Head of the Municipality of the Senior County of such former Union.

All Debentures issued under such By-law to be deposited with Receiver General, before any new ones shall issue.

Proviso.

Proviso as to By-laws passed by Unions of Counties.

Proviso.

5.—*And be it, &c.*, That no informality or irregularity in any such By-law or in the proceedings relative thereto anterior to the passing thereof, shall in any way affect the validity thereof after the Governor in Council shall have approved such By-law, but the order in Council approving such By-law shall be held to cover any such informality or irregularity, and the By-law shall be valid to all intents and purposes, and proceedings may be had for enforcing the payment by the Muni-

No informality to affect the validity of the By-law when once approved by Governor in Council.

city the Council whereof passed such By-law and by the inhabitants thereof under the provisions of the Act hereinbefore in part recited, as if the By-law had been passed after the said Act and all the requirements thereof had been complied with in regard to such By-law.

Not to apply when Debentures have been sold, &c.

6.—Nothing herein contained shall be held to authorize the raising of any Loan under the said Act, when such Loan shall have been negotiated or the Debentures issued therefor sold to any party before the passing of the said Act.

Act extended to money raised for supplying Gas or Water for any Town.

Or making plank or macadamized roads leading to it.

7.—*And be it, &c.*, That it shall be lawful for the Corporation of any Incorporated Town in Upper Canada, to authorize any sum of money to be raised on the credit of the said Consolidated Municipal Loan Fund, and to appropriate such sum, or so much thereof as may be found requisite, to defray the expense of erecting and maintaining Gas or Water Works, or both, within and for the use of such Town, or for constructing or aiding in the construction of any Plank Roads or Macadamized Roads, the making of which will benefit the inhabitants of such Town, in the same manner and to the same effect and under and subject to the same provisions and the observance of the same formalities as are attached to the raising and appropriation of any sum of money to any other purpose in and by the said Act cited in the preamble to this Act and by this Act.

16 VIC.—CAP. 126.

An Act to amend certain Acts for the relief of Religious Societies.

[Assented to 23rd May, 1853.]

Preamble.

Act of U. C. 9
Geo. IV. c. 2.
8 Vic. c. 15.

12 Vic. c. 91.

Deeds exe-

WHEREAS it is expedient further to extend the time for the registry of deeds heretofore executed under the provisions of the Act of the Parliament of Upper Canada, passed in the ninth year of the reign of King George the Fourth, intituled, *An Act for the relief of the Religious Societies therein mentioned*, and by the Act of the Province of Canada, passed in the eighth year of Her Majesty's reign, and intituled, *An Act to extend the provisions of two certain Acts of the Parliament of the Province of Upper Canada, to other denominations of Christians than those therein enumerated*, and the Act of the said Province, passed in the twelfth year of Her Majesty's reign, intituled, *An Act to amend certain Acts for the relief of Religious Societies*, but which the Trustees neglected to register: *Be it, &c.*, That all deeds heretofore executed for

any of the uses, interests or purposes of either of the said Acts, shall be as valid and effectual, if the same be registered within twelve months after the passing of this Act, as if they had been registered within the time limited by either of the before recited Acts, except in so far as they may be affected by the prior registration of other deeds or instruments relating to the same lands: *Provided always, and be it, &c.*, that in all cases where any person claiming to hold or be entitled to any real estate or property included in any such deed, on account of the omission to register the same in due time, shall in virtue of such claim have taken possession of such real estate before the passing of this Act and have made improvements thereon, and also in all cases where the person claiming to hold or to be entitled to such real property on account of such omission as aforesaid, shall have actually sold or departed with, or shall have actually contracted to sell or depart with such real estate before the passing of this Act, no person being at that time in adverse possession of the same, the provisions of this Act shall not extend to render invalid any right or title to such estate, but such right or title shall be taken and adjudged to be as if this Act had not been passed.

cuted under the said Acts to be valid, if registered within a certain time.

Proviso as to persons who have taken possession in consequence of omission to register such deeds.

16 VIC.—CAP. 152.

An Act to enlarge the representation of the people of this Province in Parliament.

[Assented to 14th June, 1853.]

UPPER CANADA.

2.—*And be it, &c.*, That the several Counties, Cities and Towns in Upper Canada shall be bounded for the purposes of this Act as they now are for the purpose of representation, except in so far as it is hereinafter otherwise provided: and that for the purposes of this Act, each of the said Counties shall include all the Towns and Villages within the limits thereof, except such of the said Towns as are specially excepted or are hereby declared to be Electoral Divisions.

Electoral Divisions of U. C.

Counties.

2. The Counties of Huron and Bruce, and the Counties of Lennox and Addington, shall respectively be united for the purpose of representation; and each such Union of two Counties shall form an Electoral Division.

United Counties.

3. The following Counties shall be divided into Ridings for the purpose of representation, and each of such Ridings shall form an electoral Division:

Counties divided into Ridings.

York.

4. The County of York shall be divided into three Ridings, to be called respectively the North Riding, the East Riding, and the West Riding.

The North Riding shall consist of the Townships of King, Whitchurch, Georgina, East Gwillimbury and North Gwillimbury.

The East Riding shall consist of the Townships of Markham, Scarborough, and that portion of the Township of York lying East of Yonge Street and the Village of Yorkville.

The West Riding shall consist of the Townships of Etobicoke, Vaughan, and that portion of the Township of York lying West of Yonge Street.

Middlesex.

5. The County of Middlesex shall be divided into two Ridings, to be called respectively the East Riding and West Riding:

The East Riding shall consist of the Townships of West Nissouri, North Dorchester, Westminster and London;

The West Riding shall consist of the Townships of Mosa, Eckfrid, Caradoc, Metcalfe, Adelaide, Williams, Lobo and Delaware.

Oxford.

6. The County of Oxford shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

The North Riding shall consist of the Townships of East Nissouri, East Zorra, West Zorra, Blandford, Blenheim, and the Town of Woodstock;

The South Riding shall consist of the Townships of North Oxford, West Oxford, East Oxford, Norwich and Dereham.

Hastings.

7. The County of Hastings shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

The North Riding shall consist of the Townships of Lake, Tudor, Grimsthorpe, Marmora, Madoc, Elzevir, Rawdon, Huntingdon and Hungerford;

The South Riding shall consist of the Townships of Sidney, Thurlow, Tyendinaga, the Village of Trenton, and the Town of Belleville.

Durham.

8. The County of Durham shall be divided into two Ridings, to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of Cavan, Manvers, Hope and the Town of Port Hope;

The West Riding shall consist of the Townships of Clarke, Darlington and Cartwright.

Northumberland.

9. The County of Northumberland shall be divided into two Ridings, to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of Cramahe, Brighton, Murray, Seymour and Percy;

The West Riding shall consist of the Townships of Hamilton, Haldimand, Alnwick, South Monaghan, and the Town of Cobourg.

10. The County of Ontario shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: Ontario.

The North Riding shall consist of the Townships of Reach, Uxbridge, Brock, Scott, Thorah, Mara, Rama and Seugog;

The South Riding shall consist of the Townships of Whitby, Pickering and the Village of Oshawa.

11. The County of Wentworth shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: Wentworth.

The North Riding shall consist of the Townships of Beverly, Flamborough East, Flamborough West and the Town of Dundas;

The South Riding shall consist of the Townships of Saltfleet, Binbrook, Glanford, Barton and Ancaster,

12. The County of Lanark shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: Lanark.

The North Riding shall consist of the Townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling and Pakenham;

The South Riding shall consist of the Townships of Montague, Elmsley North, Burgess North, Sherbrooke North, Beckwith, Drummond, Bathurst and the Town of Perth.

13. The County of Simcoe shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: Simcoe.

The North Riding shall consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia, Tiny, Tay, Matchedash and the Town of Barrie;

The South Riding shall consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Adjala, Tosorontio, Mulmer and Mono.

14. The Counties of Leeds and Grenville shall be formed into three Ridings, to be called respectively the North Riding of Leeds and Grenville, the South Riding of Leeds, and the South Riding of Grenville: Leeds and Grenville.

The North Riding of Leeds and Grenville shall consist of the Townships of Kitley, Elmsley, Welford, Oxford and South Gower;

The South Riding of Leeds shall consist of the Townships of Yonge, Escott, Front of Leeds and Lansdowne, Rear of Leeds and Lansdowne, South Crosby, North Crosby, Bastard and Burgess;

The South Riding of Grenville shall consist of the Townships of Edwardsburgh and Augusta, and the Town of Prescott.

Wellington. 15. The County of Wellington shall be divided into two Ridings, to be called respectively the South Riding and the North Riding:

The South Riding shall consist of the Town and Township of Guelph, and the Townships of Puslinch, Eramosa and Erin;

The North Riding shall consist of the Townships of Nichol, Garafraxa, Pilkington, Peel, Arthur, Maryborough, Amaranth, Luther and Minto.

Waterloo. 16. The County of Waterloo shall be divided into two Ridings, to be called respectively, the North Riding and the South Riding:

The North Riding shall consist of the Townships of North Waterloo (including the Town of Berlin,) Woolwich and Wellesley;

The South Riding shall consist of the Villages of Galt and Preston, and the Townships of South Waterloo, North Dumfries and Wilmot;

**Township of
Waterloo
divided.**

The present Township of Waterloo being divided, for the purposes of Representation only, into two Townships, to be called respectively the Township of North Waterloo and the Township of South Waterloo: the Township of North Waterloo to include and consist of that part of the present Township of Waterloo lying within the following limits, that is to say: commencing at the south-west angle of lot Number forty-six in the said Township, thence easterly along the southerly limits of the said lot, and of the lots Numbers forty-seven, forty-eight, fifty, fifty-one and fifty-three, and the prolongation thereof, to the middle of the Grand River, thence along the middle of the said River against the stream to the prolongation of the limit between Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the prolongation of the limit between the said Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the limits between the said Lots numbers one hundred and thirteen and one hundred and fourteen, northerly and easterly, to the westerly limits of the said Lot number one hundred and seven, thence along the westerly limit of the said Lot number one

hundred and seven northerly, to the northerly limits thereof, thence along the northerly limits of the said Lot number one hundred and seven and of Lots number one hundred and six, eighty-four and ninety-six, easterly to the easterly boundary of the said Township, thence along the easterly, northerly and westerly boundaries of the said Township, in a northerly, westerly and southerly direction respectively, to the place of beginning: And the Township of South Waterloo to include and consist of all the remaining part of the said present Township of Waterloo.

17. The County of Brant shall be divided into two Ridings, **Brant.** to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of South Dumfries, Onondaga, East Brantford, and the Village of Paris;

The West Riding shall consist of the Townships of Burford, Oakland, Tuscarora, West Brantford, and the Town of Brantford.

The present Township of Brantford being divided, for the purposes of Representation only, into the Townships of East Brantford and West Brantford: The Township of East Brantford to include and consist of all that portion of the present Township of Brantford which lies on the east side of the Grand River: And the Township of West Brantford to include and consist of all the remainder of the present Township of Brantford. **Township of Brantford divided.**

18. The County of Elgin shall be divided into two Ridings, **Elgin.** to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of Bayham, Malahide, Yarmouth, South Dorchester and the Village of St. Thomas;

The West Riding shall consist of the Townships of Southwold, Dunwich and Aldborough.

19. Each of the other Counties in Upper Canada, that is to say, each of the Counties of Carleton, Dundas, Essex, Frontenac, Glengarry, Grey, Haldimand, Halton, Kent, Lambton, Lincoln, Norfolk, Peterborough, Peel, Perth, Prescott, Prince Edward, Renfrew, Russell, Stormount, Victoria and Welland, shall form an Electoral Division. **Counties forming each an Electoral Division.**

20. *Provided always,* That the Townships of Gloucester and Osgoode shall, for the purpose of Representation only, be detached from the County of Carleton and attached to the County of Russell. **Special provisions as to Townships of Gloucester and Osgoode.**

21. The City of Toronto shall form an Electoral Division. **Toronto.**

- Kingston. 22. The City of Kingston shall form an Electoral Division.
- Hamilton. 23. The City of Hamilton shall form an Electoral Division.
- Brockville. 24. The Town of Brockville shall form an Electoral Division, and shall, for the purpose of Representation only, include in addition to its present limits, the whole of the Township of Elizabeth-Town, which shall for the said purpose be detached from the County of Leeds.
- Niagara. 25. The Town of Niagara shall form an Electoral Division, and shall, for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Niagara, which shall for the said purpose be detached from the County of Lincoln.
- Cornwall. 26. The Town of Cornwall shall form an Electoral Division, and shall for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Cornwall, which shall be detached from the County of Stormont.
- London. 27. The Town of London shall form an Electoral Division.
- Bytown. 28. The Town of Bytown shall form an Electoral Division.

16 VIC.—CAP. 163.

An Act to provide for the making of certain Annual Returns to the Government.

[Assented to 14th June, 1853.]

Preamble.

Clerks of Municipalities in U. C. to make certain returns to County Clerks.

WHEREAS it is desirable that the public should be in possession of full information respecting the Revenue and Expenditure of the Municipalities, of all Public Institutions and of every branch of the public service within this Province, the sources from whence derived and the objects for which expended : *Be it, &c.*, That it shall be the duty of the Clerk of every Township, Village or Town in Upper Canada, within one week after the first day of January, every year, to make a Return to the Clerk of the County in which such Municipality is situate, of all the particulars respecting his Municipality for the year then last past, contained in the Schedule marked A, appended to this Act.

County Clerks to make returns to Provincial Secretary.

2.—That the Clerk of every County in Upper Canada shall, before the first day of February, prepare and transmit to the Provincial Secretary a Statement of the said particulars respecting all the separate Municipalities within his County, entering

each Municipality in a separate line, and the particulars required opposite to it, each in a separate column, together with the sum total opposite of all the columns for the whole County, and he shall also make at the same time a Return of the same particulars respecting his County, as a separate Municipality.

3.—That the Clerk of every City in Upper Canada, and the Secretary-Treasurer or Clerk of the Municipality or Corporation of every County, City, Town, Village, Township or Parish in Lower Canada shall, before the first day of February every year, make a Return to the Provincial Secretary of the same particulars respecting his County, City, Town, Village, Township or Parish.

Clerks of Cities in U.C. and of Municipalities in L.C. to make returns to Provincial Secretary.

4.—That the proper Officer shall, before the first day of February in every year, furnish the Provincial Secretary with a Statement for the year then last past of the gross amount received from the Fee Fund in Upper Canada, and of the expenses of the Administration of Justice paid out of the same, together with the excess or deficiency, as the case may be, distinguishing in such Statement the several Cities, Towns, Counties or other Municipalities from and on account of which such sums were received and paid.

Account of U. C. Fee Fund to be furnished to Provincial Secretary.

5.—That the proper Officers shall, on or before the first day of February, every year, return to the Provincial Secretary a Statement in the form given in Schedule B., respecting the Jesuits' Estates, and the Common and Grammar School Funds.

Also returns of Jesuits' Estates Fund, &c.

6.—That the Treasurer of any County in Upper Canada shall be authorized to retain in his hands any moneys payable to any Municipality, if it shall be certified to him by the Clerk of the County that the Clerk of such Municipality has not made the Returns hereinbefore required; and the Receiver General shall be authorized to retain in his hands any moneys payable to any Municipality if it shall be certified to him by the Provincial Secretary that the Clerk of such Municipality has not made the Returns hereinbefore required; and any person hereinbefore required to make any Return by a particular day, who shall fail to make such Return as required, shall be liable to a penalty of not more than Five Pounds, to be paid to the Receiver General for the use of the Province, which penalty may be sued for and recovered by the Crown in any Court of competent jurisdiction.

Penalty on persons failing to make such returns.

7.—That the Provincial Secretary shall, within ten days after the commencement of every Session, lay before both Houses of the Legislature a copy of all the Returns hereinbefore required to be made.

Copies to be laid before parliament.

SCHEDULE A.

1. Number of persons assessed.
2. Number of acres assessed.
3. Total of rentals of real property.
4. Total of yearly value other than rentals of real property.
5. Total actual value of real property.
6. Total of taxable incomes.
7. Total value of personal property.
8. Total yearly value of personal property.
9. Total amount of assessed value of real and personal property.
10. Total amount of taxes imposed by By-laws of the Municipality.
11. Total amount of taxes imposed by By-laws of the County Council.
12. Total amount of taxes imposed by By-laws of any Provisional County Council.
13. Total amount of Lunatic Asylum or other Provincial tax.
14. Total amount of all taxes as aforesaid.
15. Total amount of income collected or to be collected from assessed taxes for the use of the Municipality.
16. Total amount of income from licenses.
17. Total amount of income from public works.
18. Total amount of income from shares in incorporated Companies.
19. Total amount of income from all other sources.
20. Total amount of income from all sources.
21. Total expenditure on account of roads and bridges.
22. Total expenditure on account of other public works and property.
23. Total expenditure on account of stock held in any incorporated Company.
24. Total expenditure on account of schools and education, exclusive of School Trustees rates.
25. Total expenditure on account of the support of the poor or charitable purposes.
26. Total expenditure on account of Debentures and interest thereon.
27. Total gross expenditure on account of Administration of Justice in all its branches.
28. Amount received from Government on account of Administration of Justice.

29. Total nett expenditure on account of Administration of Justice.
30. Total expenditure on account of salaries, and the expenses of Municipal Government.
31. Total expenditure on all other accounts.
32. Total expenditure of all kinds.
33. Total amount of liabilities secured by Debentures.
34. Total amount of liabilities unsecured.
35. Total liabilities of all kinds.
36. Total value of real property belonging to Municipality.
37. Total value of stock in incorporated Companies owned by Municipality.
38. Total value of debts due to Municipality.
39. Total amount of arrears of taxes.
40. Balance in hands of Treasurer.
41. All other property owned by Municipality.
42. Total assets.

N. B.—Columns 2 to 9 are the headings of the different columns in the Assessment Rolls, and will vary according to the form of the Assessment Rolls required by law.

SCHEDULE B.

1. The number of acres of land originally granted and date thereof.
2. The number of acres sold, rate per acre and amount.
3. Amount of money received, how and where invested.
4. What amount still due on original sales.
5. The amount of capital producing income, and amount of capital expended without producing income, up to the 31st December, of the then last year.
6. The amount of income for the then last year, from what sources, amount expended and for what purposes, in detail.

16 VIC.—CAP. 164.

An Act to prohibit the sale of Intoxicating Liquors on or near the line of Public Works in this Province.

[Assented to 14th June, 1853.]

WHEREAS it is desirable to restrain the sale and use of Intoxicating Liquors in the neighbourhood of Public Works where large bodies of men are necessarily gathered together : Preamble.

Intoxicating Liquors not to be sold within a certain distance of any public work in progress of construction.

Be it, &c., That from and after the passing of this Act, it shall not be lawful for any person or persons, except only such persons as shall have been legally licensed so to do before the passing of this Act, and only while the licenses they then hold respectively shall remain in force, to barter, sell, exchange, or dispose of in any manner whatever, directly or indirectly, to any other person any alcoholic, spirituous, vinous, fermented or other Intoxicating Liquors, or any mixed Liquor a part of which is spirituous, or vinous, fermented or otherwise intoxicating (and every such Liquor or mixed Liquor shall be included in the expression "Intoxicating Liquor" when used in this Act), nor to expose keep or have in his possession for sale, barter or exchange, any Intoxicating Liquor at any place not included within the limits of any City, incorporated or other Town or Village, and being within three miles of the line of any Railway, Canal, or other Public Work in progress of construction, whether such work be constructed by the Government of this Province, or by any incorporated Company, or by private enterprise; nor shall any person, after the passing of this Act, obtain or receive a license to sell any Intoxicating Liquor at any such place as aforesaid, and any such license, if granted after the passing of this Act, shall be utterly null and void, and the holder thereof shall be deemed to have no license: *Provided always*, firstly, that if any doubt shall at any time arise as to whether any work then in progress does or does not come within the scope and meaning of this section, it shall be lawful for the Governor of this Province, if he shall see fit, to declare by Proclamation that such work is within the scope and meaning of this section, and that the prohibition herein contained applies to any place within three miles of the line thereof, which line may be described and defined in such Proclamation, and the declaration contained in such Proclamation shall have the like force as if contained in this Act, and the said prohibition shall apply accordingly: but nothing in such declaration shall be construed as a declaration that such work or any part thereof was not within the scope and meaning of this section before the issuing of such Proclamation, but the question whether it was or was not so shall be decided as if such Proclamation had not issued: *And provided*, secondly, that this section shall not extend to any person selling intoxicating Liquors by wholesale, and not retailing the same, if such person be a licensed Distiller or a Brewer, nor shall it extend to prevent the renewal of the license of any House or Shop licensed at the time of the passing of this Act, or of Houses or Shops which have been usually licensed heretofore.

Proviso: Governor may declare any work within the scope of this Act.

Proviso.

2.—Any person who shall, in contravention of this Act, by himself, his clerk, servant or agent, expose or keep for sale or barter, or shall sell, dispose of, give or exchange for any other matter or thing, to any other person any Intoxicating Liquor, shall be liable to a fine of Five Pounds on the first conviction, Ten Pounds on the second, and on the third and every subsequent conviction to such last mentioned fine, and imprisonment for a period not more than six calendar months, such fine to be paid over to the Chamberlain, Treasurer, Clerk or Secretary-Treasurer, of the Municipality in which the offence shall be proved to have been committed, for the use of the Municipality, and to be applied to such public purposes as the Council thereof may direct, and in default of payment of any fine and costs imposed under this Act, with the costs of prosecution, at the time of conviction, the offender shall be imprisoned until the same be paid, under warrant of the Justice, Reeve, Mayor, Police Magistrate, Recorder, or Judge before whom the conviction shall be had: *Provided*, that no person shall be imprisoned for any separate offence under this Act for fine or costs, or both, or for fine and costs, for a period exceeding six calendar months.

Penalties for contravention of this Act; and how recoverable, &c.

Proviso.

3.—If any clerk, servant or agent, or other person in the employment or on the premises of another, shall sell, dispose of, or exchange for any other matter or thing, or assist in selling, disposing of, exchanging for any other matter or thing, any Intoxicating Liquor in contravention of this Act, for the person in whose service or on whose premises he may be, he shall be held equally guilty with the principal, and shall suffer the like penalty.

Agents punishable as principals.

4.—Any Justice of the Peace, any Reeve or Mayor of a Township, Village or other Municipality, any Police Magistrate, a Recorder of any City or Town, any Judge of a Circuit or Division Court, shall and may hear and determine in a summary manner any case arising within his or their jurisdiction under this Act; and every person who shall make complaint against any other person for contravening this Act or any part or portion thereof, before such Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, may be admitted as a witness, and if the Justice, Reeve, Mayor, Police Magistrate, Recorder, Judge or Commissioner, before whom the examination or trial is had, shall so order (as he may if he shall think there was probable cause for the prosecution) the defendant shall not recover costs though the prosecution fail.

Who may hear and decide cases under this Act.

Costs.

5.—No Appeal shall be allowed to any person complained of or convicted under this Act, unless he shall enter into a

On what conditions only an appeal

shall be
allowed.

Recognizance or Bond to the Municipality in which the offence is alleged to have been committed, in the sum of Twenty-five Pounds, jointly and severally, with two good and sufficient sureties, to prosecute his appeal, and to pay all costs, fines and penalties that may be awarded against him upon the final determination of the case; and no Recognizance or Bond shall be taken except by the Justice, Reeve, or Police Magistrate, Recorder or Judge before whom the complaint was made or the offender tried, and the security shall be to his satisfaction, and if the appeal shall not be successful, the Recognizance or Bond shall be forfeited, and the amount thereof shall become a debt due to the Municipality within which the offence was committed, recoverable by action by and in the name of the Municipality, and it shall be the duty of the Secretary-Treasurer, Clerk, or Treasurer, or Chamberlain of such Municipality to prosecute the same, and the money shall be applied in the same manner as the fines hereinbefore mentioned: And if the Recognizance or Bond mentioned in this section shall not be given before or within three days after conviction, order made or judgment rendered, the Appeal shall not be allowed.

Search for
Liquors al-
lowed in
certain cases.

6.—If any three persons being voters or entitled to vote at any Municipal election of the Municipality within which the complaint is made, shall make oath or affirmation before any Justice, Reeve, Mayor or Police Magistrate, Recorder or Judge of a Circuit Court or Division Court, that they have reason to believe and do believe that any Intoxicating Liquor intended for sale or barter in contravention of this Act, is kept or deposited in any Steamboat or other vessel, or in any carriage or vehicle, or in any store, shop, warehouse, or other building or place in such Municipality, or on any river, lake or water adjoining the same, at any place within which such Intoxicating Liquor is by this Act prohibited to be sold or bartered or kept for sale or barter, the said Justice, Mayor, Reeve, Police Magistrate, Recorder, or Judge, shall issue his Warrant of Search to any Sheriff, Police Officer, Bailiff or Constable, who shall forthwith proceed to search the premises, steamboat, vessel or place described in such Warrant, and if any intoxicating Liquor be found therein, he shall seize the same and the barrels, casks or other packages in which it may be contained, and convey them to some proper place of security, and there keep them until final action is had thereon; but no dwelling house in which, or in part of which a shop or bar is not kept, shall be searched, unless one at least of the said complainants shall testify on oath to some act of sale of Intoxicating Liquor therein or therefrom in contravention of

this Act within one calendar month of the time of making the said complaint; and the owner or keeper of the Liquor seized as aforesaid, if he shall be known to the Officer seizing the same, shall be summoned forthwith before the Justice or person by whose Warrant the Liquor was seized, and if he fail to appear, and it appears to the satisfaction of the said Justice or person who issued the Warrant that the said Liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited with any package in which it is contained, and shall be destroyed by authority of the written Order to that effect of the said Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the Officer by whom the said Liquor shall have been destroyed, in attesting that fact upon the back of the Order by authority of which it was done: and the owner or keeper of such Liquor shall pay a fine of Ten Pounds and costs, or be committed to prison for three calendar months in default thereof.

Owner of Liquor found to be summoned.

Destruction of Liquors found to be illegally kept.

Fine.

7.—If the owner, keeper or possessor of Liquor seized under the provisions of this Act shall be unknown to the Officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure shall have been advertised, with the number and description of the package as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places, and if it shall be proved within such two weeks to the satisfaction of the Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge by whose authority such Liquor was seized, that it was not intended for sale or barter in contravention of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the Warrant, which shall be returned to the said Justice or person who issued the same; but if after such advertisement as aforesaid, it shall appear to such Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, that such Liquor was intended for sale or barter, in contravention of this Act, then such Liquor, with any package in which it is contained, shall be forfeited, condemned and destroyed.

Proceedings if the owner be unknown, &c.

Destruction of Liquors found to be forfeited.

8.—Any payment or compensation for Liquor sold or bartered in contravention of this Act, whether in money or securities for money, labor or property of any kind, shall be held and considered to have been received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the

Payments for Liquors illegally sold, &c., in contravention of this Act, to be void.

party making, paying or furnishing the same, and all sales, transfers, conveyances, liens and securities of every kind which either in whole or in part shall have been given for or on account of Intoxicating Liquor sold or bartered in contravention of this Act, shall be utterly null and void against all persons and in all cases, and no right of any kind shall be acquired thereby, and no action of any kind shall be maintained either in whole or in part for or on account of Intoxicating Liquor sold or bartered in contravention of this Act.

Witnesses may be compelled to appear in cases under this Act.

9.—It shall be lawful for any Justice of the Peace; Reeve, Police Magistrate, Recorder or Judge authorized to hear and determine offences against this Act, to summon any person who may be represented to him as a material witness in relation to any offence against this Act, and if such person shall refuse or neglect to attend pursuant to such Summons, the Justice or person authorized to try the offence, may issue his Warrant for the arrest of the person so summoned, and such person shall be brought before the Justice or person issuing the Warrant, and if he shall refuse to be sworn or to affirm, or to answer any question touching the matter under investigation, he may be committed to the common gaol, there to remain until he shall consent to be sworn or to affirm and answer; And all the provisions of any Act or Acts for the protection of Justices of the Peace when acting as such, or to facilitate proceedings by or before them, in matters relating to summary conviction and orders, shall in so far as they may not be inconsistent with this Act, apply to every functionary mentioned in this Section or empowered to try offenders against this Act, and such functionary shall be deemed a Justice of the Peace within the meaning of any such Act, whether he be or be not a Justice of the Peace for other purposes.

Provisions of Acts for protection of Justices, extended to cases under this Act.

Costs of enforcing judgment to be included.

10.—That whenever judgment shall be rendered for costs, there shall be included therein fees for such prospective services as shall be necessary to enforce such judgment.

Costs under this Act.

11.—Upon judgment or affirmance of any appeal, and for any other proceeding under this Act which shall be had before a Justice, Reeve or other functionary, the costs shall be the same as are now by law allowed for proceedings of a like nature, and in actions and proceedings in any higher Court, the costs shall be the same as are usually allowed in such Court.

Actions and proceedings not to be void for want of form.

12.—No action or other proceeding, Warrant, Judgment, Order or other Instrument or Writing, authorized by or which may be necessary to carry out the provisions of this Act shall

be held void, or be allowed to fail for defect of form, but all Justices, Municipal Councils, Judges and Courts, and all Public Functionaries or Officers who may be required to perform any duty under this Act, shall regard the same as a remedial Statute, and shall so construe its provisions as to advance the remedy, and suppress the mischief mentioned in the Preamble thereof.

13.—*And be it, &c.,* That so much of each and every Act and provision of law now in force in any part of this Province, as shall be inconsistent with any provisions of this Act, shall be and is hereby repealed.

Inconsistent enactments repealed.

16 VIC.—CAP. 169.

An Act in addition to the General Railway Clauses Consolidation Act.

[Assented to 14th June, 1853.]

5.—*And be it, &c.,* That notwithstanding any thing in the said General Railway Clauses Consolidation Act contained, it has not been, nor is, nor shall be lawful for the Mayor, Reeve or other Chief Officer, or other person representing any Municipality having or taking Stock in any Railway Company incorporated or to be incorporated in this Province, by any Act of this Session, either directly or indirectly to vote on the election or appointment of the private Directors of such Company, unless the Special Act of Incorporation of such Company shall expressly provide therefor in the said Special Act.

Heads of Municipalities not to vote at election of private Directors, unless, &c.

16 VIC.—CAP. 170.

An Act to restrain the injurious practice of inoculating with the Small Pox.

[Assented to 14th June, 1853.]

WHEREAS it is highly expedient to restrain the injurious practice of inoculating with the natural Small Pox, (*variola*):
Be it, &c., That any person who shall produce or attempt to produce, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or wilfully by another means whatsoever, the disease of Small Pox in any person in this Province, shall be liable to be proceeded against and convicted summarily before any two Justices, and for every such offence shall upon conviction be imprisoned for any term not exceeding one month.

Preamble.

Penalty for inoculating with the Small Pox.

License of
offender to
become void.

2.—*And be it, &c.,* That if any person licensed to practise Physic, Surgery or Midwifery in this Province or in any part thereof be convicted of an offence against the provisions of this Act, the license of such person in that behalf shall thereby become null and void and of no effect, and such person shall from and after the date of such conviction be liable to the same penalty in the event of his practising Physic, Surgery or Midwifery in Lower Canada or in Upper Canada respectively, as he would have been liable to for so doing if he had never been licensed to practise the same: *Provided always,* that it shall be lawful for the Governor General, on the Certificate of the Medical Board in Upper Canada, or for the Provincial Medical Board in Lower Canada, at any time after the expiration of the term of imprisonment of any such person so convicted as aforesaid, again to license such person to practise Physic, Surgery and Midwifery as aforesaid, and thereupon and thereafter such person shall no longer be liable to any fine or penalty for so doing.

Proviso:
License may
be again
granted.

16 VIC.—CAP. 178.

An Act to facilitate the performance of the duties of Justices of the Peace, out of Sessions, in Upper Canada, with respect to Summary Convictions and Orders.

[Assented to 14th June, 1853.]

Recital.

13 & 14 Vic.
c. 54.

Appeals to
lie in cases
under By-
laws of a Mu-
nicipality.

26.—And whereas doubts may exist whether under the provisions of the Act passed in the Session of Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered fifty-four, and intituled, *An Act to extend the rights of Appeals in certain cases in Upper Canada*, Appeals will lie from convictions and decisions under By-laws of Municipal Councils; *Be it, &c.,* That in all cases of complaints against any person for committing any offence against any By-law of any Municipal Corporation in Upper Canada, all decisions, convictions and orders made by any Justice of the Peace, or by any person by law authorized to act in that capacity, shall be subject to an Appeal in the manner and subject to the provisions prescribed in the above recited Act.

16 VIC.—CAP. 182.

An Act to amend and consolidate the Assessment Laws of Upper Canada.

[Assented to 14th June, 1853.]

Preamble.

WHEREAS it is expedient to amend the Assessment Laws now in force in Upper Canada, and to provide in one Act for

the just and equal assessment of property and the levying and collecting of Municipal rates in the several Townships, Villages, Towns, Cities and Counties in Upper Canada: *Be it, &c.*, That the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to establish a more equal and just system of Assessment in the several Townships, Villages, Towns and Cities in Upper Canada*, and the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to explain and amend the Assessment Law of Upper Canada*, be and the same are hereby repealed, except in so far as the same may affect any rates or taxes of the present year, or any rates or taxes which have accrued and are actually due, or any remedy for the enforcement or recovery of such rates or taxes not otherwise provided for by this Act: *Provided always*, that all taxes of the present year, and all arrears of other taxes remaining due after this Act shall come into force, shall be collected and recovered according to the provisions of this Act.

Acts 13 & 14
Vic. c. 67,
and 14 & 15
Vic. c. 110,
repealed.

Proviso as to
arrears.

PROPERTY LIABLE TO TAXATION.

2.—*And be it, &c.*, That all land and personal property in Upper Canada shall be liable to taxation, subject to the exemptions hereinafter specified; and the occupant of any land belonging to Her Majesty shall be liable to taxation for the land so occupied, but such land shall not be chargeable for the same.

What property shall
be liable to
taxation.

3.—*And be it, &c.*, That the term "Land" as used in this Act, shall be held to include all buildings or other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the reality, and all trees or underwood growing upon the land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty, Her Heirs or Successors; and the terms "real estate" and "real property," whenever they occur in this Act, shall be construed as having the same meaning as the term "land" thus defined; and the terms "personal estate" and "personal property" whenever they occur in this Act, shall be construed to include all goods, chattels shares in incorporated companies, moneys, notes, accounts and debts at their full value, and all other property, except land as above defined, and property herein expressly exempted; and the term "property" shall include both real property and personal property as above defined.

Meaning of
the terms
"land,"
"real estate,"
"real property,"
"personal
estate,"
"personal
property,"
and "pro-
perty," in
this Act.

4.—*And be it, &c.*, That if the nett personal property of any party shall be equal in value to any of the sums set down

Assessment
Scale for
personal
property.

in the first column of the annexed scale, but shall not be equal to the larger sum set opposite to it in the second column, he shall be assessed for such smaller sum only—

£25 or more, but under	£50
£50 do.	do. £100
£100 do.	do. £250
£250 do.	do. £500
£500 do.	do. £1,000
£1,000 do.	do. £2,500
£2,500 do.	do. £5,000
£5,000 do.	do. £10,000
£10,000 do.	do. £15,000
£15,000 do.	do. £20,000

and so forward, the sums thenceforth increasing by £5,000.

How persons deriving income from any trade, calling or profession shall be assessed.

5.—*Provided always, and be it, &c.,* That no person deriving income from any trade, calling, office or profession, exceeding the amount of Fifty Pounds per annum, shall be assessed for a less sum as the amount of his nett personal property, than the amount derived from such income during the year then last past, but such last year's income shall be held to be his nett personal property, unless he has other personal property to a greater amount.

Certain property exempted from taxation.

6.—*And be it, &c.,* That the following property shall be exempt from taxation.

All property belonging to Her Majesty.

1. All estate and property belonging to or vested in Her Majesty, Her Heirs and Successors, or held by Her Majesty or any other person or body corporate in trust for or for the use of any tribe or body of Indians, or vested in any public body, officer, person or party in trust for Her Majesty, or for the public uses of the Province, save as hereinbefore provided as to any private occupant of such property.

Places of Worship, Colleges, Grammar Schools and Public Educational Institutions, Buildings for public purposes, Public Roads and Ways, &c.

2. Every place of worship, every church-yard or burying ground, the real estate of any University, College, incorporated Grammar School, or other incorporated Seminary of learning, or real estate held in trust for the same, so long as such real estate is actually used and occupied by it, but not if occupied by others or unoccupied; every Public School House, Town or City Hall, Court House, Gaol, House of Correction, Lock-up House, or public Hospital with the land attached thereto, or on which the same is erected, and the personal property belonging to each of them, every Public Road and Way or Public Square, and the property belonging to any Township, Village, Town, City, or County, if occupied for the purposes thereof, or unoccupied.

3. The Provincial Penitentiary and the land attached thereto. Provincial Penitentiary.
4. Every Industrial Farm, Poor House, Alms House, House of Industry or Lunatic Asylum, and every house belonging to a Company for the reformation of offenders, and the real and personal property belonging to or connected with the same. Houses, &c., used for philanthropic purposes.
5. The property of every Public Library, Mechanics' Institute or other public literary or scientific institution, and of every Agricultural Society. Scientific Institutions.
6. The personal property of the Governor or Lieutenant Governor of this Province, and the official income of any person administering the Government of this Province for the time being. Personal property of Governor, &c.
7. The occupant of any property of her Majesty, or held for Her Majesty or the public uses of this Province in respect of his occupation of such property in an official capacity. Official occupants of public property.
8. The full or half pay of any one in any of Her Majesty's Naval or Military services, or any pension, salary or other gratuity or stipend derived by any person from Her Majesty's Imperial Treasury or elsewhere out of this Province, and the personal property of any such persons in such Naval or Military services on full pay, or otherwise in actual then present service, nor shall such persons be liable to perform statute labor, or to commute for the same. Imperial salaries, pensions or gratuities, personal property of Officers on full pay.
9. All pensions under Fifty Pounds a year payable out of the public moneys of this Province. Pensions under £50 a year.
10. The income of a farmer derived from his farm, and the crops the produce thereof for the current year. Incomes derived from farms.
11. So much of the personal property of any person as is secured by a mortgage upon land, or may be due to him on account of the sale of land the fee or freehold of which is vested in him. Personal property secured by mortgage.
12. The stock held by any person or in any Chartered Bank so long as by any law of this Province there is a special tax upon bank issues, or in any Railroad Company. Bank Stock and Railroad Stock.
13. All property, stocks and other securities which any party may own out of this Province. Stocks owned out of the province.
14. So much of the personal property of any party as shall be equal to the just debts owed by him, except such debts as are secured by mortgage upon his real estate, or may be unpaid on account of the purchase money therefor. Personal property to amount of debts due.
15. The nett personal property of any individual, provided the same be under Twenty-five Pounds in value. Personalty under £25.
16. The stipend or salary of any Minister of Religion from Stipend of

Ministers,
under £300.

Household
effects,
books, &c.

Lands to be
assessed
where situ-
ated.

In what
cases they
shall be as-
sessed in the
name of the
owner and
in what case
in that of
the occupant.

From whom
taxes may be
recovered.

Unoccupied
lands how to
be designat-
ed.

Proviso as to
the estate of
Railroad
Companies.

whatever source derived, as long as the same does not exceed Three Hundred Pounds annually.

17. Household effects, books, and wearing apparel.

7.—*And be it, &c.,* That all lands to whomsoever belonging, shall be assessed in the Township, Village or Ward in which they lie, and in the name of and against the owner thereof, if known, or if resident or having a legal domicile or place of business, when the assessment shall be made, within such Township, Village or Ward, or the Town or City in which it is included, or if such lands be occupied by such owner or wholly unoccupied; but if the owner be not so resident or be unknown, or the land be occupied, it shall be assessed in the name of and against the occupant; and occupied land owned by a party known or residing or having a legal domicile or place of business in the Township, Village, Town or City where the same is situate, but occupied by another party, shall be assessed in the name of and against both the owner and the occupant (inserting the name of both in the Roll with the word "owner" or "occupant" added as the case may be, and notifying both in the manner hereinafter provided); and the taxes thereon may be recovered from either or from any future owner or occupant saving his recourse against any other party; and if any land be owned or occupied by more than one party, then any one or more of them may be deemed the owner or owners, occupant or occupants, and shall be liable accordingly, saving his or their recourse against the others, but the names of all such owners and occupants shall be mentioned if known; and any occupant may deduct from his rent any taxes he may have paid, if the same could also have been recovered from the owner, unless there be a special agreement between the owner and the occupant to the contrary.

8.—*And be it, &c.,* That unoccupied lands not known to be owned by any party resident or having a legal domicile or place of business, in the Township, Village, Town or City where the same are situate, or belonging to any party whose residence or domicile or place of business upon diligent enquiry by any assessor of such Township, Village, Town or City, shall not be found therein, or who being resident out of the Municipality, shall not have signified to the Assessor personally or in writing, that he owns such land and desires to be assessed therefor, shall be denominated "Lands of non-residents," and shall be assessed as hereinafter provided; *Provided always*, that the real estate of any Railroad Company, although it may be in a Municipality other than that where the office of the said Company is held, shall not be considered to be land of non-residents.

9.—*And be it, &c.,* That the real estate of all incorporated Companies shall be assessed in the Township, Village or Ward where the same shall be, in the same manner as the real estate of individuals ; and their personal property shall not be assessed against them in their corporate capacity, but each Shareholder in any Incorporated Company shall be assessed for the value of the stock or shares held by him, as part of his personal property, except where such stock is specially exempted by this Act.

How the property of Corporations shall be assessed.

10.—*And be it, &c.,* That the personal property of any partnership shall be assessed against it at the usual place of business of such partnership, and each partner in his individual capacity shall not be assessable for his share of the personal property of any partnership which has already been assessed ; and if a partnership has more than one place of business, each branch as far as may be, shall be assessed in the locality where it is situate, for that portion of the personal property of the partnership which belongs to that particular branch ; and if this cannot be done, the partnership may elect at which of its places of business it will be assessed for the whole personal property, and shall be required to produce a certificate at each of the other places of business, of the amount of personal property assessed against it elsewhere.

Personal property of partnerships how and where to be assessed.

As to partnerships having more than one business locality.

11.—*And be it, &c.,* That every party having any Farm, Shop, Factory, Office or other place of business, where he carries on any trade, profession or calling, shall be assessed for all personal property owned by him, and wheresoever situate, in the Township, Village or Ward where he has such place of business when the assessment is made ; and if he has two or more such places of business in different Municipalities or Wards, he shall be assessed at each for that portion of his personal property connected with the business carried on thereat, or if this cannot be done, he shall be assessed for part of his personal property at one and part at another of his places of business or for all his personal property at one such place at his discretion, but he shall in all such cases produce a certificate at each place of business of the amount of personal property assessed against him elsewhere ; and if any party has no place of business he shall be assessed at his place of residence ; and wherever he is assessed there shall be included with his property all personal property in his possession or under his sole control as trustee, guardian, executor or administrator, and in no case shall property so held be assessed against any other party, and if it be owned or possessed by or under the control of more than one party, each shall be assessed for his share, or if they hold in a representative character, then each shall be assessed for an equal portion.

Where parties carrying on trade or professions shall be assessed for personal property.

If the party has no place of business.

Property held by him in a representative character to be assessed at the same place.

Real property to be estimated at full value.

What shall be deemed vacant land, and how its value shall be calculated in Cities, &c.

Yearly value of personalty in Cities, &c.

Proviso as to yearly value of real property in Cities, &c.

All taxes under 12 Vic. c. 81, or any other Act, to be levied equally upon the whole property of the locality to be taxed.

See 22 Vic. c. 99.

Yearly taxes to be computed from 1st January, unless otherwise ordered.

One or more Assessors may be appointed in any place.

12.—*And be it, &c.,* That real property shall be estimated at its full value as it would be appraised in payment of a just debt from a solvent debtor, and the yearly value of real property in Cities, Towns or Villages shall be the real rack rent for each separate tenement to be ascertained by the Assessors, in the manner hereinafter provided; but if more than one quarter of an acre of land be attached to any house or building forming a separate tenement, the overplus shall be held to be vacant ground, and the full actual value of all vacant ground shall be estimated by the Assessors, and six per cent. thereon shall be deemed its yearly value, and the yearly value of personal property in Cities, Towns and Villages, shall be calculated to be six per cent. on its actual value: *Provided always*, that no real property in Cities, Towns and Villages shall be assessed at a rental which is less than six per cent. on the full and real value thereof; but if the actual rent falls short of that amount, the property shall nevertheless be assessed at the full yearly value calculated as six per cent. upon the real value.

13.—*And be it, &c.,* That all taxes to be levied under this Act, or the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to provide by one General Law for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, or under any other Act passed or to be passed whereby any local or direct taxes have been or shall be authorized to be levied, and when no other express provision shall be made in this respect, shall be levied equally upon the whole real and personal property of the locality to be taxed in proportion to the assessed value thereof, and not upon any one or more kinds or species of property in particular or in different proportions.

14.—*And be it, &c.,* That the taxes levied or assessed for any year, shall in all cases be considered and taken to have been imposed for the then current year, commencing with the first day of January, and ending with the thirty-first day of December, unless otherwise expressly provided for by the enactment or By-law under which the same are imposed or authorized or directed to be levied.

ASSESSMENTS.

15.—*And be it, &c.,* That notwithstanding any thing in any Act or law to the contrary, the number of Assessors or Collectors to be appointed in and for any City, Town, Village or Township, shall be one or more in the discretion of the Municipal Council thereof, and such Municipal Council may,

in their discretion, appoint the same Assessor or Collector to act in and for any number of Wards or for the whole of any City or Town.

16.—*And be it, &c.,* That the Municipal Council of any Township, City, Town or Village may, if they deem it expedient, divide the same into convenient Assessment Districts, and may assign the Assessment District or Districts within which each Assessor shall act, and may prescribe such regulations for governing the Assessors in the performance of their duties as shall not be inconsistent with this Act, or with any law in force in Upper Canada.

Townships, or Cities, Towns, &c., may be divided into Assessment Districts, and regulations made for governing Assessors.

17.—*And be it, &c.,* That the Assessor or Assessors for each Township, Village and Ward shall prepare an Assessment Roll, in which after diligent enquiry, shall be set down in separate columns, and according to the best information in their power, the names and surnames in full, if the same can be ascertained, of all taxable parties resident in the Township, Village or Ward, and of all non-resident Freeholders who shall, either in person or in writing, have required such Assessor to enter their names and the land owned by them in the Roll, together with the description and extent or amount of property assessable against each, and containing the particulars mentioned in the Schedule appended to this Act marked A., for each of the items whereof the Assessment Roll shall contain a separate column; *Provided always,* that whenever any Assessor shall enter upon his Roll the name of any Freeholder who shall have required his name so to be entered, he shall write opposite to it "non-resident," together with the address of such Freeholder, and no such non-resident shall be entitled to vote at any Municipal Election by reason of his name being so entered on the Assessor's or Collector's Roll; anything in the Upper Canada Municipal Corporations' Acts to the contrary notwithstanding.

Assessment Roll to be prepared: its form and contents.

Proviso: non-residents entered on Roll to be distinguished as such.

18.—*And be it, &c.,* That it shall be the duty of each party assessable in any Township, Village or Ward, to give all necessary information to the Assessor or Assessors, and if required by the Assessor or by one of the Assessors, if there be more than one, to deliver to such Assessor a statement in writing, signed by such party (or his agent, if such party be absent) and containing all the particulars respecting the property or income assessable against such party which are required in the Assessment Roll; and if any reasonable doubt is entertained by the Assessor of the correctness of any information given by the party applied to, it shall be the duty of the Assessor to

Particulars respecting property or income to be delivered to Assessors in writing, by the parties to be assessed.

Proviso :
statements
given by
parties not
binding on
Assessors.

require from him a written statement as aforesaid, and if any such asssssable party shall fail to deliver such statement to the Assessor or one of the Assessors when thereunto required, such person shall thereby forfeit to the Municipal Corporation of the Village, Town, City or Township, the sum of Five Pounds currency, to be recovered as a debt due to such Municipal Corporation in any way in which debts due to it can be recovered: Provided that no such statement shall bind the Assessor or Assessors further than they shall from their personal knowledge believe the same to be correct, nor shall it excuse them from making due enquiry whereby to ascertain whether it is or is not correct, and notwithstanding such statement, they may assess such party for such amounts of property or income as they may believe to be just and correct, and may omit his name or any property which he claims to own or occupy if they shall have reason to believe him not entitled to be placed on the Roll, or to be assessed for such property.

Penalty on
parties mak-
ing false
statements.

19.—*And be it, &c.,* That if any person shall have knowingly stated anything falsely in the written statement required to be made by the preceding Section, he may be summarily convicted thereof before any Justice of the Peace, or other person authorized to act in that capacity, having jurisdiction within the locality, and shall be liable to a fine of not more than Five Pounds.

Parties
assessed as
Trustees,
&c., to have
their repre-
sentative
character
attached to
their names.

20.—*And be it, &c.,* That when a person shall be assessed as Trustee, Guardian, Executor or Administrator, he shall be assessed as such with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment, and he shall be assessed for the value of the real and personal estate held by him, whether in his individual name or in conjunction with others in such representative character, at the full value thereof or for the proper proportion thereof, if others, resident within the same Municipality, be joined with him in such representative character.

Railway
Companies
to transmit
annual state-
ments des-
cribing value
of their real
property to
Clerk of Mu-
nicipality;
and shall be
notified of
the amount
at which
they are
assessed.

21.—*And be it, &c.,* That every Railway Company shall annually transmit to the Clerk of every Municipality in which any part of the road or other real property of such Company is situate, a statement describing the value of all the real property of the Company other than the roadway, and also the actual value of the land occupied by the road in such Municipality, according to the average value of land in the locality, and the Clerk shall communicate the same to the Assessors; and the Assessor or Assessors shall deliver at or transmit by post to any station or office of the Company, a notice of the total

amount at which they have assessed the real property of the Company in their Municipality or Ward, distinguishing the value of the land occupied by the road, and the value of all other real property of the Company; and the statement and notice herein mentioned shall for all the purposes of this Act be held to be the statement required by the eighteenth section, and the notice required by the twenty-third section of this Act.

22.—*And be it, &c.,* That the lands of non-residents who have not required their names to be entered by the Assessor, shall be designated in the same Assessment Roll, but in a part separate from the other assessments, headed "Non-residents Land Assessments," and in the manner following, that is to say: If the land to be assessed be a tract not known to be sub-divided into lots, it shall be designated by its boundaries or other intelligible description: If it be a tract which is known to be sub-divided into lots, or be part of a tract known to be so sub-divided, the Assessors shall proceed as follows: They shall designate the whole tract in the manner above prescribed with regard to undivided tracts: If they can obtain correct information of the sub-divisions, they shall put down in their Assessment Rolls, and in a first column, all the unoccupied lots owned by non-residents, by their numbers and names alone and without the names of the owners, beginning at the lowest number and proceeding in numerical order to the highest; in a second column, and opposite to the number of each lot, they shall set down the quantity of land therein liable to taxation; in a third column, and opposite to the quantity, they shall set down the value of such quantity, and if such quantity be a full lot, it shall be sufficiently designated as such by its name or number as aforesaid, but if it be part of a lot, the part shall be designated by boundaries, or in some other way by which it may be known.

Lands of non-residents how to be designated and described on the Assessment Roll.

23.—*And be it, &c.,* That the Assessors shall also before the completion of their Roll, leave for every party named thereon, and resident or domiciled or having a place of business within the City, Town, Village or Township, and shall transmit by post to every non-resident named thereon, a notice of the actual or yearly value at which his real property, and of the sum at which his personal property or income shall have been assessed by them.

Assessors to give notice to parties of the value at which their properties are assessed.

24.—*And be it, &c.,* That the Assessor or Assessors shall make and complete their assessment in every year between the first day of February and such day as the Municipal Council of the City, Town, Village or Township shall appoint, which day shall not be later than the fifteenth day of April, and on or

At what time the Assessment Roll shall be completed.

before the day to be so appointed, the Assessor or Assessors or a majority of them, shall complete the Assessment Roll, and shall severally attach thereto a certificate signed by each of them, and verified upon oath or affirmation, which shall be in the form following:

Certificate to be attached to Roll.

"I do certify that I have set down in the above Assessment Roll, all the real property liable to taxation, situate in the Township, Village or Ward of —, (as the case may be) and the true actual (or yearly) value thereof, in each case, according to the best of my information and judgment; and also that the said Assessment Roll contains a true statement of the aggregate amount of the personal property of every party named in the said Roll; and that I have estimated the same according to the best of my information and belief; and I further certify that I have entered therein the names of all the resident householders and freeholders, and of all other freeholders who have required their names to be entered thereon, with the true amount of property occupied or owned by each, and that I have not entered the name of any person whom I do not truly believe to be a householder or freeholder, or the *bona fide* occupier or owner of the property set down opposite his name for his own use and benefit."

Assessment Roll to be delivered up to Clerk of Municipality Duty of the said Clerk.

25.—*And be it, &c.*, That the Assessor or Assessors shall deliver the Assessment Roll completed and added up, with the certificates and affidavits attached, to the Clerk of the Municipality; and it shall be the duty of the Clerk to make a copy thereof arranged in the alphabetical order of the surnames, and he shall cause such copy to be put up in some convenient and public place within the Municipality, and to be maintained there until after the meeting of the Court of Revision as hereinafter provided, and the Clerk of each Municipality shall without delay transmit to the County Clerk a certified copy of the Assessment Roll of his Municipality after the same is finally revised and corrected, after the appeal provided by the twenty-eighth section of this Act.

Proceedings in cases in which parties consider themselves aggrieved by any entry on the Roll, &c.

26.—*And be it, &c.*, That in case any party shall deem himself wrongfully inserted on or omitted from the Roll, or undercharged or overcharged by the Assessor or Assessors in his or their Roll, he or his Agent may, within fourteen days after the time fixed for the return of the Assessors' Roll, give notice in writing to the Clerk of the Municipality that he considers himself aggrieved for any or all of the causes aforesaid, and the subject matter of such complaint shall be tried by a Court of five members of the Municipal Council of the City Town, Village or Township, to be appointed by such Municipal

Court for trying such cases.

Council, (or, if such Council consists of not more than five members, the members of the Council shall be such Court,) and at such time as the said Court shall appoint; and the Court, after hearing the complainant and the Assessor or Assessors and any witness adduced by or on behalf of either of them, upon oath, shall determine the matter and confirm or amend the Roll accordingly, and if either party shall fail to appear either in person or by an agent, such Court may proceed *ex parte*: and any three or more members of any Court shall be a *quorum*, and any majority of a *quorum* may decide all questions before the Court: and if any Municipal elector shall think that any party has been assessed too low or too high, or has been wrongfully inserted on or omitted from the Roll, the Clerk shall on his request in writing, give notice to such party and to the Assessor or Assessors, of the time when the matter shall be tried by the said Court, and the matter shall be decided in the same manner as complaints by a party assessed; and the Roll as finally passed by the said Court, and certified by the Clerk as so passed, shall be valid, and shall bind all parties concerned, notwithstanding any defect or error committed in or with regard to such Roll, except in so far as the same may be further amended on the appeal hereinafter provided; and the Clerk of the Municipality shall post up in some convenient and public place within the Municipality, a list of all complainants on their own behalf against the Assessor's return, and of all complainants on account of the assessment of other parties (stating the names of each) with a concise description of the matter complained against, together with an announcement of the time when the Court to hear such complaints will be held, which list may be in the form given in the Schedule appended to this Act marked B; and the Clerk shall also advertise in some newspaper published in the City, Town, Village or Township, or if there be none, then in one published at the nearest place in the County, the time at which the aforesaid Court of Revision will hold its first sitting; and he shall also cause to be left at the residence of each Assessor a list of all the complaints; and he shall cause to be left at the residence or place of business of each party with respect to whom a complaint is made, a notice in the form given in the Schedule appended to this Act marked C, or if the party is not known or not resident within the Municipality, then with some grown person on the premises assessed, or addressed to such party through the Post Office; and each such notice hereby required, whether by publication, advertisement, letter or otherwise, shall have been completed at least six days before the sitting of the Court.

Quorum.

Municipal electors complaining of wrong entries as to other parties

Effect of Roll as finally passed.

Publication of list of complainants.

Advertisement of time of Courts sitting.

Notice to parties concerned.

Appearance and declaration of persons deeming themselves, or any person for whom they act, overcharged.

27.—*Provided always, and be it, &c.,* That any person deeming himself overcharged on his personal property or that any person for whom he is agent is so overcharged, may appear before the Court of Revision hereinbefore constituted, and may make a declaration in the form following:

"I, A. B., do solemnly declare that the true value of all the personal property (or income) assessable against me, (or against me as Trustee, Guardian, Executor, &c., or against C. D. for whom I am agent, *as the case may be*), after deducting the just debts due by me (as such Trustee, &c., or by C. D.) does not, to the best of my knowledge and belief, exceed the sum of — pounds currency, (*and if the declaration is made by an agent, add:*) And that I have the means of knowing, and do know the extent and value of the personal property assessable against C. D."

False declaration to be perjury.

And the Court of Revision shall thereupon enter the person complaining at such amount of personal property or income as is specified in the declaration, and no more; and if any party shall make a wilfully false statement in any declaration so to be made, he shall be guilty of a misdemeanor, and shall be punished as for perjury.

Parties dissatisfied with decision of Court of Revision may appeal to Judge of County Court, and in what manner and on what terms.

28.—*And be it, &c.,* That if any party shall be dissatisfied with the decision of the Court of Revision upon any matter connected with the assessments, such party may, within three days after the decision, serve upon the Clerk of the Municipality a written notice of his intention to appeal to the Judge of the County Court, and the Clerk shall give notice to all the parties appealed against in the same manner as is provided for notice of complaints by the twenty-sixth section of this Act; and the party appealing shall at the same time give a written notice of his appeal to the Clerk of the Division Court for the Division within the limits of which the Municipality may be situate, and he shall deposit with him the sum of Ten Shillings to cover the costs of the appeal, and the Clerk of the Division Court shall cause a conspicuous notice to be posted up at the place where the Division Court is held, containing the names of all the appellants and the parties appealed against, ranged under the several Municipalities, if there be more than one Municipality in the Division, together with the date at which a Court will be held to hear the appeal, which day shall be determined by the Judge of the County Court; and at the Court so to be holden, the Judge shall hear the appeals, and he may adjourn the hearing from time to time and defer the judgment thereon at his pleasure, so that a return can be made to the Clerk of the Municipality before the fifteenth day of July; and the Judge shall

Notice of appeals to be published.

Hearing appeals.

Transmission

transmit his decision to the Clerk of the Division Court, to be by him forthwith transmitted to the Clerk of the Municipality, and such Judgment shall be final, and the Clerk of the Municipality shall amend the rolls according to the Judge's decision, and the costs of the Court, shall in all cases be borne by the Appellants, but each party shall pay his own witnesses, except in the case of wilful fraud or corruption, when the Judge may order all costs to be paid by the party offending; and the costs as aforesaid shall be taxed according to the schedule of fees under the Division Courts Acts as in suits for the recovery of sums exceeding Ten and not exceeding Fifteen Pounds in the said Courts.

Decision of decision to Clerk of Municipality. Costs, by whom paid, and how taxed.

29.—*And be it &c.*, That the Court of Revision constituted by the twenty-sixth section of this Act, shall also have power to receive and decide upon any Petition from any party assessed, for any tenement which shall have remained vacant during more than three calendar months, in the year for which the assessment was made, or from any party who from sickness or extreme poverty shall declare himself unable to pay the taxes, or who by reason of any gross and manifest error in the Roll as finally passed by the Court, shall have been overcharged more than twenty-five per cent. on the sum he ought to have been charged, and to remit or reduce the taxes due by any such party, or to reject such Petition, as to them shall seem meet and right, unless some By-law shall be in force to govern them in this behalf, in which case they shall decide in accordance with such By-law: And the Municipal Council of any City, Town or Township, is hereby empowered to make such By-laws and to repeal or amend the same from time to time.

Further powers granted to Court of Revision established by s. 26.

30.—*And be it, &c.*, That the said Court shall have full power to meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the Head of the Municipality, and the Court or any member thereof may administer an oath to any party or witness, or may issue a summons to any witness to attend such Court; and if any witness so summoned shall fail to attend, (being tendered compensation for his time at the rate of Two Shillings and Six Pence a day), he shall incur a penalty not exceeding Five Pounds, to be recoverable, with costs, by and to the use of the Corporation of the City, Town, Village or Township in any way in which penalties incurred under any By-law thereof may be recovered; and the Clerk of the Corporation shall be the Clerk of the said Court: *Provided always*, that all such duties of the said Court as relate to the revising of the Assessment Rolls according to the provisions of the twenty-sixth section of this Act shall be com-

Court may meet adjourn from time to time at pleasure.

May summon witnesses.

Penalty on witnesses failing to attend.

Clerk of Court.

Proviso: proceedings to be completed by a certain day.

pleted and the Rolls finally revised before the first day of June in every year.

MUNICIPAL RATES.

Estimate to be made of sums required for lawful purposes of the Municipality.

By-laws for raising money by rate.

If the amount collected fall short.

If there be an excess.

Proviso.

Proviso.

Assessment Rolls to be examined annually by Municipal Council of the County, for the purpose of equalizing the valua-

31.—*And be it, &c.*, That estimates shall be made of all sums which may be required for the lawful purposes of any City, Town, Village, Township or County for each year in which such sums are required to be levied, making due allowance in such estimate for the cost of collection and the abatements and losses which may occur in the collection of the tax, and for taxes on non-resident lands which may not be collected, and it shall be lawful for the Council of any such Municipality to pass one By-law or several By-laws authorizing the levying and collection of a rate or rates of so much in the pound upon the assessed value of the property therein, as, in the judgment of such Council, may be sufficient to raise the sum or sums required on such estimate or estimates; and if the amount collected shall fall short of the sums severally estimated to be required for the lawful purposes of such Municipality, the Council thereof may direct the deficiency to be made up from any unappropriated fund belonging to such Municipality, or if there be no such fund, the deficiency may be equally deducted from the several sums estimated to be required, or from any one or more of them, at the discretion of such Council; and if the sums collected exceed the amounts of the several estimates, the balance shall form part of the General Fund of the Municipality, and be at the disposal of the Municipal Council thereof unless otherwise specially appropriated: *Provided always*, that if any portion of the whole amount collected for the purposes of any County, City, Town, Village or Township, shall have been on account of a special tax upon any particular locality within the same, no less a sum shall in any case be appropriated to such special local object than was actually collected and received from such locality: *Provided also*, that in Counties and Townships the several rates shall be calculated at so much in the pound upon the actual value of all the real and personal property therein, and in Cities, Towns and Villages, at so much in the pound upon the yearly value of such real and personal property.

32.—*And be it, &c.*, That the Municipal Council of each County shall every year, at some period to be fixed at their discretion, but not later than the First day of July, examine the Assessment Rolls of the different Townships, Towns and Villages in the County, for the preceding financial year, for the purpose of ascertaining whether the valuation made by the Assessors in each such Township, Town or Village, bears a

just relation to the valuation so made in all such Townships, Towns and Villages, and such meeting of the Council may be adjourned from time to time till such duty is completed; and it shall be lawful for such Municipal Council to increase or decrease the aggregate valuations of real property in any such Township, Town or Village, adding or deducting such sums upon the hundred as may in their opinion be necessary to produce a just relation between all the valuations of real estate in such County; but it shall not be lawful for them in any case to reduce the aggregate valuation thereof for the whole County as made by such Assessors: *Provided always*, that if the Clerk of any Municipality shall have neglected to transmit a certified copy of the Assessment Rolls as hereinbefore required, such neglect shall not prevent the County Council from equalizing the valuations in the several Municipalities according to the best information obtainable, and any rate imposed according to such equalized Assessment shall be as valid as if the Assessment Rolls had been transmitted: *Provided also*, that in the year 1854, it shall not be necessary for the Municipal Council of any County to examine the Assessment Rolls as herein before provided, but all the rates which should by this Act have been calculated upon the Assessment Rolls as equalized in 1854 as aforesaid, shall be calculated upon the Assessment Rolls as equalized at the meeting of the Municipal Councils of the several Counties required to be held for that purpose on the third Monday in June of the present year.

tion in the
different
Municipali-
ties.

Proviso: if
Clerk of any
Municipality
shall have
omitted to
send copy of
Roll.

Proviso: no
such equaliz-
ation requir-
ed for 1854.

33.—*And be it, &c.,* That the Municipal Council of each County in apportioning any County rate among the different Townships, Villages and Towns within such County, in order that the same may be assessed equally on the whole ratable property of such County, shall make the amount of property returned on the Assessment Rolls as finally revised and equalized, of such Townships, Villages and Towns for the financial year next before that in which such rate shall be so apportioned, the basis upon which such apportionment shall be made; and that in making such apportionment between Townships in which rates are assessable on the actual value of property, and Villages and Towns in which such rates are assessable on the annual value of such property, the sum total of the rentals assessed in such Village or Town shall be calculated to be ten per cent. upon the capital represented, and the capital so ascertained, together with the total actual value of other real property, and the total value of personal property, shall be considered the aggregate valuation of such Town or Village, for the purpose of rating it for any County or Provincial tax: *Provided always*,

The appor-
tionment of
County rates
to be based
upon the
Assessment
Rolls of pre-
ceding year.

Apportion-
ment thereof
as between
Townships
and Towns,
&c.

Proviso as to

new Municip-
alities.

that if any new Municipality has been erected or set apart within any County, so that there shall be no Assessment Rolls of such new Municipality for the next preceding financial year, the County Council shall, nevertheless, by examining the Rolls of the former Municipality or Municipalities of which such new Municipality then formed part, ascertain to the best of their judgment, what part of the Assessment of such Municipality had relation to the new Municipality, and what part should continue to be accounted as the Assessment of the original Municipality, and their several shares of the County tax shall be apportioned between them accordingly.

Municipal
Council to
direct by By-
law what
part of any
sum required
for County
purposes,
shall be levied in any
Township,
Town, &c.

34.—*And be it, &c.,* That in every case in which any sum is to be levied for County purposes, or by the County for the purposes of any particular locality, the Municipal Council of the County shall ascertain, and by By-law direct what portion of such sum shall be levied in each Township or incorporated Town or Village in such County or locality; and it shall be the duty of the County Clerk before the first day of August in each year to certify to the Clerk of each Township or incorporated Town or Village in his County, the total amount which shall have been so directed to be levied thereon in the then current year for County purposes or for the purposes of any such locality, and the Clerk of the Township, Town or Village shall calculate and insert the same in the Collector's Roll for that year: *Provided always*, that nothing in this Act contained shall alter or invalidate any special provisions for the collection of a rate for interest on County Debentures, whether such provisions be contained in the Municipal Corporations Acts of Upper Canada or the Act to establish a Consolidated Municipal Loan Fund in Upper Canada, or in any General or Special Act authorizing the issue of Debentures, or in any By-law of the County Council providing for the issuing of the same.

Proviso: not
to affect cer-
tain special
enactments.

STATUTE LABOUR.

A sum of
money sub-
stituted for
Statute
Labour in
certain cases,
in Cities,
Towns, &c

35.—*And be it, &c.,* That if any male inhabitant of any City or incorporated Town or Village, of the age of twenty-one years and upwards, and under sixty years of age (and not otherwise exempted by law from performing statute labour) shall not be assessed upon the Assessment Rolls of such City, Town or Village, or if being assessed, his taxes do not amount to ten shillings currency, he shall instead of such labour be taxed ten shillings yearly therefor, to be levied and collected in the same manner as other local taxes for the use of the Corporation of the place. And no such person shall be exempt from the tax herein named by reason of his producing a certificate

Performance
of Statute
Labour else-

that he has performed statute labour elsewhere, unless he was actually domiciled out of the limits of the City, Town or Village at the time he so performed statute labour. where not to exempt.

36.—*And be it, &c.,* That every male inhabitant of any Township between the ages aforesaid and not otherwise assessed, shall be liable to two days of statute labour on the Roads and highways in such Township: and every party assessed upon the Assessment Roll of any Township, shall, if the property of such party be assessed— Statute Labour, parties liable, and in what ratio, in Townships.

At not more than £50, be liable to 2 days of labour;

The rates.

At more than £50, but not more than £100, to 3 days' labour;

" 100,	" 150,	" 200,	" 300,	" 400,	" 500,	" 600,	" 800,	" 1000,
4	5	6	7	8	9	10	12	1

For every 200, above the sum of 1000, 1

Unless the Municipality of such Township shall have directed by By-law, that a sum of money be paid in commutation of such labour, in which case the tax chargeable against such person in lieu of statute labour shall be added in a separate column in the Collector's Roll, and shall by him be collected and accounted for in the same manner as any other tax: *Provided always*, that the Municipal Council of every Township may by By-law, to operate generally and ratably, reduce or at their discretion increase the number of days' labour to which all the parties rated on the Assessment Roll or otherwise shall be liable under this Act, so that the number of days' statute labour to which each person shall be liable, shall be in proportion to the amount at which such person is assessed. Or money payment.

37.—*And be it, &c.,* That if the Collector shall not be able to collect the sum of ten shillings named in the thirty-fifth, or the tax in lieu of statute labour named in the thirty-sixth sections of this Act, he shall levy the same by distress and sale of the goods and chattels of the party in default, in the same manner as is hereinafter provided for the collection of other taxes; and in case no sufficient distress to satisfy the sum due by such party shall be found, then, it shall and may be lawful for the Head of any such Municipality, or any Justice of the Peace having jurisdiction in the locality, upon complaint that such party appears upon the Collectors' Roll to be rated for such Payment of tax under s. 35 and 36, in lieu of statute labour, may be enforced by distress, or committal.

sum, that the same has been duly demanded and that the party has neglected to pay the same, and that no sufficient distress can be found, to issue a Warrant under his hand and seal, and to commit the party to the Common Gaol of the County for any time not exceeding six days, unless such sum and the costs of the Warrant hereby authorized to be issued, and the execution thereof shall be sooner paid.

Statute labour performable by non-residents in Townships shall be commuted into money at 2s. 6d. a day; and how collected and enforced.

As to non-residents who have required their names to be entered on the Roll.

38.—*And be it, &c.,* That in Townships the statute labour against non-residents in respect of their property shall be commuted at the rate of two shillings and six pence currency, for each days' labour, or such other sum as may have been determined by the Municipal Council of the Township, as the rate of commutation for residents; And no non-resident whose name is not entered on the Assessment Roll shall be admitted to perform statute labour in respect of any land owned by him, or in liquidation of the commutation money charged against the same, and such commutation shall be charged against each such separate lot or parcel according to its assessed value, and shall as hereinafter provided be entered in a Roll by the Clerk of the Municipality and transmitted to the Treasurer of the County, to be by him collected in the same manner as any other tax; but any non-resident who has required his name to be inserted on the Assessors' Roll shall be admitted to perform statute labour as a resident, and shall be liable to a fine for the non-performance thereof as if he were a resident, and if he shall not have performed his statute labour, or paid commutation for the same, the Overseer of Highways, in whose division he was placed, shall return him as a defaulter to the Clerk of the Municipality before the first day of September, and the Clerk shall in that case enter the commutation for statute labour against his name in the Collectors' Roll, and if at any time before the first day of May next ensuing, any owner of non-residents' land which shall have been returned as such to the Treasurer of the County, shall have given in writing to the Treasurer a list of the lands owned by him in the Municipality, and shall have tendered to him the taxes in full on such land, and the just commutation money as herein provided, he shall be liable to the commutation for statute labour only upon the aggregate value of all the lands owned by him in such Municipality, but after the first day of May as aforesaid, no change shall be made in the commutation for statute labour charged against each separate parcel, in consequence of several such parcels being owned by the same party.

COLLECTION OF RATES.

39.—*And be it, &c.,* That it shall be the duty of the Clerk of every City, Town, Village or Township, to make out a Collector's Roll for the Township or Village, or for each Ward in the City or Town, as the case may be, on which shall be set down the name in full of each party assessed, and the correct assessed value of the real and personal property of each party, and all the values so set down shall be those ascertained after the final revision of the assessments as hereinbefore provided, and he shall also calculate and set down the amount for which each party is chargeable, for any sum or sums ordered to be levied by the Municipal Council of the County for County purposes, under the head of "County Rate," and he shall also calculate and set down on the Roll, in a separate column, opposite to the names and lots therein, the amount with which each party is chargeable for any sum or sums ordered to be levied by the Municipal Council of the Township, Village, Town or City, for Township, Village, Town or City purposes, or for commutation of statute labour; and which column shall be headed "Township Rate," "Village Rate," "City Rate," or "Town Rate," as the case may be, and whenever there shall be any special rate for collecting the interest upon Debentures issued, or any local rate or school rate or any other special rate, the proceeds of which are required by law or by the By-law imposing it to be kept distinct and accounted for separately, each such rate shall be calculated separately, upon the revised assessments, and shall be in a column headed "Special Rate," "Local Rate," "School Rate," or as the case may be, and all moneys to be assessed, levied and collected under the authority of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to provide funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, or under any other Act in force or hereafter to be in force in Upper Canada, by and under which any moneys raised by local assessment or taxes are payable to the Receiver General of the Province, or to any other Public Officer of this Province, for the public uses of the Province, or for any special purpose or use mentioned in such Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the Collector's Rolls in a separate column headed "Asylum Rate," or as the case may be, and the Clerk shall deliver the Roll so made certified under his hand, to the Collector on or before the first day of October, or such other day as may be prescribed by any By-law of the Municipality.

Clerk of the Municipality to make out a Collector's Roll; its form and contents.

Public taxes under 13 & 14 Vic. c. 68, or any other Act, to be assessed, collected in the same manner as local rates.

Clerk to make out another Roll of lands of non-residents whose names are not in the Assessment Roll; and transmit it to County Treasurer or City Chamberlain.

40.—*And be it, &c.,* That it shall be the duty of the Clerk of every City, Town, Village or Township, to make out a Roll in which he shall enter the lots, parts of lots or parcels of land assessed against non-residents, whose names have not been set down in the Assessor's Roll, together with the true valuation of each parcel as finally ascertained after the revision of the Assessment Rolls, and he shall enter opposite to each lot or parcel all the rates or taxes with which the same are chargeable by any By-law of the Municipality or of the County, or by any Act of the Legislature, in the same manner as is hereinbefore provided for the rates and taxes to be calculated and entered upon the Collectors' Roll; and he shall transmit the Roll so made out, certified under his hand, to the Treasurer of the County in which his Municipality is situate, or to the City Chamberlain, as the case may be, at the same time as is prescribed for the delivery of his Roll to the Collector.

Duties of Collectors on receiving Collection Rolls.

41.—*And be it, &c.,* That every Collector upon receiving his Collection Roll, shall proceed to collect the taxes therein mentioned, and for that purpose shall call at least once on the party taxed, or at the place of his usual residence or domicile or place of business, if within the Township, Village, Town or City in and for which such Collector has been appointed, and shall demand payment of the taxes charged on the property of such party; and if any person whose name appears on his Roll shall not be resident within the Municipality, he shall transmit to him by post a statement and demand of the taxes charged against him in the Roll, and the Collector shall not receive any money on account of any lands not set down on his Roll.

If payment be not made, Collectors to levy the tax by distress and sale.

42.—*And be it, &c.,* That in case any party shall refuse or neglect to pay the taxes imposed upon him for the space of fourteen days after such demand made as aforesaid, the Collector shall levy the same with costs, by distress and sale of the goods and chattels of the party who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the Township, Village, Town or City in which he is the Collector; and at any time after one month from the date of the delivery of the Roll to him, the Collector may make distress of any goods and chattels which he may find upon any of the land of non-residents on which the taxes inserted against the same on his Roll have not been paid; and no claim of property, lien or privilege thereupon or thereto, shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof.

Public notice of sale to be given; and

43.—*And be it, &c.,* That the Collector shall give public notice of the day of sale, and of the name of the party whose

property is to be sold, or in case of a non-resident whose name is not known to the collector, of the number and description of the lot on account of the taxes on which the distress was made, which notice shall be given at least six days previous to the sale, by advertisement posted up in at least three public places in the Township, Village or Ward wherein such sale shall be made; and the sale shall be made by public auction.

44.—*And be it, &c.,* That if the property distrained shall be sold for more than the whole amount of the taxes and costs, the surplus shall be returned to the party in whose possession such property was when the distress was made, if no claim to such surplus shall be made by any other party, on the ground that the property sold belonged to him, or that he is entitled by lien or privilege to such surplus; and if any such claim be made and be admitted by the party for whose taxes the same was distrained, the surplus shall be paid to such owner, but if such claim be contested, the surplus money shall be paid over by the Collector to the Township, Village or Town Treasurer or City Chamberlain, who shall retain the same until the respective rights of the parties shall be determined by action at law or otherwise.

in what manner.

Surplus to be paid, if unclaimed, to the party in whose possession the goods were.

If the right to such surplus be contested.

45.—*And be it, &c.,* That if any party against whom any tax now is or hereafter shall be assessed in any Township, Village, Town or City, shall not be resident within the Municipality, or shall have removed out of the same after such assessment, and before such tax shall have been collected, or if any party shall neglect or refuse to pay any tax which now is or hereafter shall be assessed in any Township, Village, Town or City within the County in which he shall reside, and payable by him, it shall be lawful for the Collector of such Township, Village, Town or City, to levy and collect such tax with costs by distress and sale of the goods and chattels of the party aforesaid, in any Township, Village, Town or City, which for judicial purposes shall be within the same County, and to which such party shall have so removed, or in which he shall reside, or of any goods or chattels in his possession therein, and if in any case the taxes payable by any party cannot be recovered in any special manner provided by this Act, they may be recovered with interest and costs, as a debt due to the City, Town, Township or Village in a competent Court in this Province; and the production of a copy of so much of the Collector's Roll as shall relate to the taxes so payable by such party, purporting to be certified as a true copy by the Clerk of such City, Town, Township or Village, shall be *prima facie* evidence of the debt; and the taxes accrued or to accrue on any land shall be a special lien on such

Proceedings in case of removal of parties assessed, and their neglect or refusal to pay.

Taxes not otherwise recoverable, may be recovered by common action.

Copy of Collector's Roll to be *prima facie* evidence of amount due.

Taxes to be

a special lien on the land. land, having preference over any claim, lien, privilege or incumbrances of any party except the Crown, and shall not require registration to preserve it.

Collector to return his Roll and pay over proceeds on the day to be appointed by Municipal Council.

46.—*And be it, &c.,* That on or before the fourteenth day of December, in each year, or on such other day in each year as the Municipal Council of the County shall have appointed, which day shall not be later than the first of March next following, it shall be the duty of each Collector to return his Collection Roll to the Treasurer of the Township, Village or Town, or City Chamberlain, and to pay over the amount payable to such Treasurer or Chamberlain, specifying how much of the whole amount paid over is on account of each rate entered in a separate column on his Collection Roll.

Proceedings if any taxes are returned as unpaid.

47.—*And be it, &c.,* That if any of the taxes mentioned in the Collector's Roll shall remain unpaid, and the Collector shall not be able to collect the same, he shall deliver to the Township, Village or Town Treasurer, or City Chamberlain, an account of all the taxes remaining due on the said Roll; and in such account the Collector shall shew, opposite to each separate assessment, the reason why he could not collect the same, by inserting in each case the words "non-resident" or "no property to distrain," as the case may be, and upon making oath before the Treasurer or Chamberlain that the sums mentioned in such account remain unpaid, and that he has not upon diligent enquiry been able to discover any goods or chattels belonging to or in the possession of the parties charged with or liable to pay such sums, whereon he could levy the same, he shall be credited with the amount thereof.

NON-RESIDENTS.

Lists of lands granted or leased, &c., to be furnished annually to County Treasurer by Commissioner of Crown Lands.

48.—*And be it, &c.,* That the Commissioner of Crown Lands shall, during the month of January in every year, after the passing of this Act, transmit to the Treasurer of every County, a list of all the Lands within the said County granted or leased or in respect of which a license of occupation has issued during the preceding year, and of all ungranted Lands of which no person has received permission to take possession, and also of all lands on which instalments of purchase money or rent or any other sum of money shall be over-due and unpaid, a copy of which the Treasurer is hereby required to furnish to the Clerk of each Municipality in the County as far as regards lands in such Municipality; and the said Clerks shall furnish to the Assessors a statement shewing what Lands are liable to Assessment within their Assessment Districts, respectively.

49.—*And be it, &c.,* That it shall be the duty of the Treasurer of each Municipality, within fourteen days after the time determined as hereinbefore provided for the return and final settlement of the Collector's Roll, to furnish the Treasurer of the County with a correct copy of such Roll, as far as the same relates to all the lands of the Municipality, distinguishing the rates with which they may be chargeable and the sums paid, and if any such rates only affect lands in a certain locality, with a description of such locality, and also with an account of all arrears remaining due upon lands on account of any rate imposed by School Trustees, and generally with any other information which the Treasurer of the County may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in such Township for that year.

Correct copies of Collector's Roll to be furnished by Treasurer of Municipality to Treasurer of County, as far as regards lands.

50.—*And be it, &c.,* That from and after the time when the Collector's Roll has been returned to the Township Treasurer, no more money shall be received on account of the arrears then due by any officer of the Municipality to which such Roll relates ; but the collection of such arrears shall belong to the Treasurer of the County alone, and he shall receive payment of any such arrears and of all the taxes on lands of non-residents hereinbefore required to be returned and certified to him by the Clerk of each Municipality, and he shall give a receipt therefor, specifying the amount paid, the period for which it is paid, the lot or parcel of land upon which it is paid, and the Concession and Township in which such land lies, and the date of payment, and the Treasurer shall not receive any part of the tax charged against any parcel of land, unless the whole arrears then due be paid, or satisfactory proof be produced of the previous payment or erroneous charge, of any portion thereof : but if satisfactory proof is adduced to him that any parcel of land on which taxes are due, has been sub-divided, he may receive the proportionate amount of the tax chargeable upon any of the sub-divisions, and leave the other sub-divisions chargeable with the remainder, and the Treasurer shall on demand made, give to the owner of any land charged with arrears of taxes, a written statement of such arrears at that date, and he shall be authorized to charge One Shilling for the search on each separate lot or parcel, but the Treasurer shall not make any charge for search to any person who shall forthwith pay the taxes, or who shall transmit to the Treasurer a schedule of his lands for the purpose of ascertaining the amount of taxes thereon, provided he shall pay the taxes within one month after being furnished with a statement of the amount thereof.

After Collector's Roll has been returned, collection of arrears to belong to Treasurer of County only.

He shall not receive part of the taxes due on any land.

But he may receive those on any sub-division of a lot established to his satisfaction.

Fees.

Lands on which taxes remain unpaid to be entered in books kept for the purpose, by the County Treasurer, &c.

Books to be made up and balanced yearly.

51.—*And be it, &c.,* That it shall be the duty of the Treasurer of every County to keep books in which he shall enter under the heading of each Municipality in his County, all the lands in such Municipality, on which it shall appear from the returns made to him by the Clerk of the Municipality, and from the Collector's Roll returned to him, that there are any taxes unpaid, and the amounts so due, and he shall on the first day of May in every year complete and balance his books by entering against each parcel of land the arrears, if any, due at the last settlement, and the taxes of the preceding year, which may remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date.

Proceedings where any land shall be found not to have been assessed in any year.

And if any lot has not been included in Collector's Roll.

As to pretended receipts, &c.

52.—*And be it, &c.,* That if it shall appear to the Treasurer at the settlement to be made on the first day of May as aforesaid, that any parcel of land liable to assessment has not been assessed, it shall be the duty of the Treasurer to report the same to the Clerk of the Municipality, and it shall be lawful for the Clerk of such Municipality to enter such parcel of land on the Collector's Roll of the following year or the Roll of non-residents, as the case may be, as well for the arrears omitted as for the tax of that year; and if it shall appear to the Treasurer that any parcel of land assessed has not been included in the Collector's Roll, in the return made to him by the Clerk, or that having been included in the Collector's Roll, the tax thereon has not been paid, he shall be authorized to insert such parcel of land, and the just tax thereon, in his books; or if it shall appear that any parcel of land has been placed on the return of non-resident lands made to him, which is not liable to assessment, or which has also been placed upon the Collector's Roll and the tax thereon has been paid, he shall be authorized to erase such tax from his books, and may otherwise correct any palpable error or any error which may from time to time be certified to him by the Clerks of the several Municipalities; but if any person shall produce to him in satisfaction of a tax, any paper purporting to be a receipt of any Collector, School Trustee, or other Town, Village or Township Officer, he shall not accept such proof, until he shall have received a report upon the same from the Clerk of the Municipality interested, certifying the correctness thereof.

Ten per cent. to be added to arrears yearly.

53.—*And be it, &c.,* That at the balance to be made on the first day of May in every year, if it shall appear that there is any arrear of tax due upon any parcel of land, the Treasurer shall add to the whole amount then due, ten per cent. thereon.

54.—*And be it, &c.,* That it shall be lawful for the County Treasurer, whenever he shall be satisfied that there is distress upon any lands of non-residents in arrear for taxes, to issue a warrant under his hand and seal to the Sheriff of the County, who shall thereby be authorized to levy the amount due upon any goods and chattels found upon the land, in the same manner and subject to the same provisions as are contained in the forty-second, forty-third, and forty-fourth Sections of this Act, with respect to distress made by Collectors.

If there be distress upon lands of non-residents, County Treasurer may authorize Sheriff to levy.

55.—*And be it, &c.,* That whenever a portion of the tax on any land has been due for five years, the Treasurer of the County shall issue a Warrant under his hand and seal directed to the Sheriff of the County, commanding him to levy upon the said lands for the amount of arrears due thereon with his costs, and after the issuing of the Warrant, the Treasurer shall receive no payment on account of the sums contained in the Warrant; *Provided always,* that the Municipal Council of the County may, at their discretion, direct that no such Warrant shall issue to the Sheriff until some portion of the arrears shall have been due for such other period longer than five years as the said Council may by By-law prescribe, and also that they may direct such parcels of land only to be included in the warrant as are chargeable with an arrear of tax exceeding a certain sum to be determined by such Council.

Arrears of taxes on lands remaining due for five years to be levied by warrant of the Treasurer to Sheriff, commanding him to levy the same.

Proviso: County may extend the period, &c.

56.—*And be it, &c.,* That the Treasurer in the Warrant hereinbefore required to be issued shall distinguish such Lands as have been patented from those which are under a lease or license of occupation, and of which the fee still remains in the Crown; and the Sheriff in the advertisements hereinbefore required shall similarly distinguish the Lands patented from those the fee of which is in the Crown, and if he shall sell any of the latter Land he shall only sell the interest therein of the lessee or locatee and it shall be so distinctly expressed in the conveyance to be made by the Sheriff, and such conveyance shall give the purchaser the same rights in respect of the Land as the original lessee or locatee enjoyed, and shall be valid without requiring the assent of the Commissioner of Crown Lands.

Distinction to be made in such warrant and Sheriff's advertisements between lands leased by the Crown and those granted by patent.

57.—*And be it, &c.,* That immediately upon receipt of the Warrant, the Sheriff shall prepare a list of all the lands included therein, and the amount of arrears due on each parcel, and shall cause the same to be published for the space of three months in the government *Official Gazette*, and in some one newspaper published within the County, or if none be so published, in some newspaper published in an adjoining County,

Proceedings to be taken by Sheriff on receipt of warrant.

Advertisement.

which advertisement shall contain a notification that unless the arrears be sooner paid, he will proceed to sell the said lands for the taxes, on some day to be named in the advertisement, which day shall be more than three months after the first publication thereof, and he shall add to all the arrears so published, their proportionate shares of the cost of publication according to their amounts respectively, and the Sheriff shall also post a notice similiar to the advertisement hereby required, in some convenient and public place at the Court House of the said County, at least three weeks before the time of sale.

Costs.

Posting up notice.

In case of distress being found on the lands, Sheriff to levy thereon.

Proviso.

Mode in which the lands shall be sold by the Sheriff.

Sheriff's return.

If there be no bidders.

Sheriff selling to give purchaser a

58.—*And be it, &c.,* That at any time after the receipt of the Warrant, if the Sheriff shall have good reason to believe that there is distress upon any parcel of land included therein, he shall levy the arrears of taxes and the costs by distress and sale of any goods and chattels found on the land in the same manner and subject to the same provisions as is required by the forty-second, forty-third and forty-fourth sections of this Act; but no subsequent sale of any such parcel of land by the Sheriff shall be held to be illegal or invalid by reason of there having been any goods and chattels thereon before or at the time of the sale, and the Sheriff having neglected to levy the tax by the distress and sale of the same.

59.—*And be it, &c.,* That if the taxes shall not have been previously collected, or if no person shall appear to pay the taxes at the time and place appointed for the sale, the Sheriff shall sell by Public Auction, so much of such lands as shall be sufficient to discharge such taxes, and all lawful charges incurred in and about such sale, and the collection of such taxes, selling in preference such part of such real estate as he may consider it most for the advantage of the owner to sell first, and stating distinctly in the certificate to be delivered by him to the purchaser, what part of the Lot is so sold, or that the whole Lot or estate is so sold, as the case may be, and within one month after the date of the sale the Sheriff shall make a detailed return to the Treasurer of each separate parcel of land included in the Warrant, and shall pay to him the money levied by virtue thereof. And if at the time appointed for the sale no bidders shall appear, the Sheriff may adjourn the sale from time to time at his discretion, and if the purchaser of any parcel of land shall fail on demand to pay to the Sheriff the amount of the purchase money, the Sheriff may forthwith proceed to put up such property for sale again.

60.—*And be it, &c.,* That the Sheriff selling any lands for taxes, shall give a certificate under his hand to the purchaser,

describing the land sold, the quantity of such land, the sum for which it was sold and the expenses of sale, and stating that a Deed conveying the same to such purchaser will be executed by the Sheriff on his demand, at any time after the expiration of one year from the date of such certificate, if the land be not previously redeemed.

certificate of land sold.

61.—*And be it, &c.,* That the purchaser of any land sold for taxes under this Act, shall, on receipt of the Sheriff's certificate of sale, become the owner thereof, so far as to have all the necessary rights of action and powers for protecting the same from spoliation or waste until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but may use the same without deteriorating its value: *Provided always,* that from and after tender to the Treasurer of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the land in question.

Purchaser of lands sold for taxes to be deemed owner thereof for certain purposes on receipt of Sheriff's certificate.

Proviso.

62.—*And be it, &c.,* That if at the time when this Act shall come into force no advertisement or sale of land for arrears of taxes shall have taken place in any County at the time required by the Upper Canada Assessment Act of one thousand eight hundred and fifty, the sales of such lands thereafter shall not on that account be illegal, but all arrears of taxes and the expenses of advertising (if any) may be collected under this Act, and on non-payment thereof, any parcel of such lands, as soon as any part of the tax thereon has been five years in arrear, may be sold according to the provisions of this Act.

Taxes now due may be collected under this Act, notwithstanding failure to sell or advertise as required by Assessment Act of 1850.

63.—*And be it, &c.,* That every Sheriff shall be entitled to receive five per cent. commission upon all sums collected by him under any Warrant hereinbefore required to be issued by the Treasurer of the County, and whenever any distress of goods and chattels is made by the Sheriff under such Warrant, he may proceed to sell the same in the same manner and subject to the same provisions as are contained in the forty-second, forty-third and forty-fourth Sections of this Act, with respect to distress made by a Collector, and he may charge Ten Shillings for each distress and sale; and whenever any land is sold by a Sheriff according to the provisions of the fifty-ninth Section of this Act, he may receive the sum of Five Shillings for the sale of each separate parcel, and the Sheriff may add the commission and fees which he is hereby authorized to charge

Sheriff to receive 5 per cent. commission on moneys by him collected.

Fees for distress and sale, &c.

May be added to amount in warrant.

No other fees payable.

Proviso : expenses of search in Registrar's Office.

for the services above mentioned, to the amount of arrears included in the Treasurer's Warrant on those lands in respect of which such services were severally performed, and he shall be entitled to no other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands : *Provided always*, that if the Sheriff cannot give a sufficient description of any land sold by him without a search in the Registrar's Office to ascertain the description and boundaries of the whole parcel as returned to him in the Treasurer's Warrant, he shall in addition to the charges hereinbefore authorized be entitled to charge the fee for the necessary search.

Owners may within one year redeem estate sold, by paying purchase money and 10 per cent. thereon.

64.—*And be it, &c.*, That the owner of any real estate which may hereafter be sold for non-payment of taxes, or his heirs, executors, administrators or assigns, may at any time within one year from the day of sale, redeem the estate sold, by paying or tendering to the County Treasurer, for the use and benefit of such purchaser or his legal representatives, the sum paid by him, together with ten per cent. thereon, and the said Treasurer shall give to the party paying such redemption money a receipt, stating the sum paid and the object of payment, and such receipt shall be evidence of the redemption.

After expiration of year allowed for redemption, Sheriff to deliver a Deed of Sale of land to the purchaser.

Certificate for registration.

Fee to Registrar.

65.—*And be it, &c.*, That if the land be not redeemed within the period hereinbefore allowed for its redemption, the Sheriff shall, on the demand of the purchaser, at any time after the expiration of the said period of one year, and on payment of the sum of Five Shillings to him by such purchaser, execute and deliver a Deed of Sale of such land to the purchaser, his heirs and assigns ; and such Deed shall state the date and cause of the sale and the price, and shall describe the land by its situation, boundaries and quantity, and shall have the effect of vesting the land in the purchaser, his heirs and assigns in fee simple, free and clear of all charges and incumbrances thereon, except taxes accrued since those for the non-payment whereof it was sold ; and the Sheriff shall also give the purchaser a Certificate of the execution of such Deed, containing the particulars aforesaid, under his hand and seal, which for the purpose of registration of the Deed in the Registry Office of the proper County shall be deemed a Memorial thereof, and the Deed shall be registered, and Certificate of the Registry thereof granted by the Registrar on production to him of the Deed and Certificate, and without further proof ; and the Registrar shall, for the Registry and Certificate thereof, be entitled to Three Shillings and Six Pence, and no more.

66.—*And be it, &c.,* That the Registrar of every County shall register any Sheriff's Deed of land sold for taxes before the first day of January, one thousand eight hundred and fifty-one, according to the provisions of the Act of the Parliament of Upper Canada, passed in the sixth year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to amend and make permanent a certain Act of the Parliament of this Province passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled "An Act to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general assessment of lands and other ratable property throughout this Province," and to render more effectual the several laws of this Province imposing rates and assessments, by providing under certain restrictions, for the levying such rates and assessments by the sale of a portion of the lands on which the same are charged,* notwithstanding the repeal of the said Act by the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to repeal the Acts and provisions of law relative to Assessments and matters connected therewith in Upper Canada.*

Registrars of Counties to register Sheriffs' Deeds of lands sold for taxes before 1851, under Act of U. C. 6 Geo. IV. c. 7.

Notwithstanding repeal of that Act by 13 & 14 Vic. c. 66.

67.—*And be it, &c.,* That the Sheriff shall enter in a book, to be furnished by the County, a full description by metes and bounds, of each parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, which book shall be returned to the Treasurer after the aforesaid entries are made, and shall by him be kept, together with all copies of Assessors and Collectors' Rolls and other documents relating to non-resident lands, amongst the records of the County.

Sheriff to enter in a book description of lands conveyed to purchasers by him.

68.—*And be it, &c.,* That all the moneys which may at any time be received by the County Treasurer on account of the taxes on non-resident lands in any Municipality in the County, whether the same be paid to him directly or be levied by the Sheriff, shall be and constitute a distinct and separate fund, which shall be called the "Non-Resident Land Fund" of such County, and the Treasurer shall open an account for each Municipality with the said fund; and if any two or more Municipalities having been united for Municipal purposes are afterwards disunited, or if any Municipality or part of Municipality shall hereafter be added to or detached from any County or to or from any other Municipality, the Treasurer shall make such corresponding alterations in his books, as that any arrears due on account of any parcel or lot of land at the date of the alteration, shall be placed to the credit of the Municipality within

Non-Resident Land Fund established in each County, and of what it shall consist.

Counties united and afterwards disunited.

If any union
be about to
be dissolved.

which the land after such alterations shall be situate; and if any union of Counties shall be about to be dissolved, all the taxes on non-residents' land imposed by By-laws of the Provisional Municipal Council of the Junior County, shall be returned to and collected by the Treasurer of the United Counties, and not by the Provisional Treasurer, and the Treasurer of the United Counties shall open an account forthwith for the Junior County with the non-resident land fund.

All arrears
to form one
charge upon
the lands
subject to
them, &c.

Deficiencies
in certain
taxes to be
supplied by
the Municipality.

Proviso.

69.—*And be it, &c.,* That the Treasurer of the County shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears from whatever rates arising shall be taken together and form one charge on the land, and each Municipality in paying over any school or local rate, or its share of the Lunatic Asylum tax or of any County rate, shall supply out of the general funds of the Municipality any deficiency arising from the non-payment of any tax on land, and all sums which may at any time be paid to any Municipality out of the Non-Resident Land Fund of the County, shall form part of the general funds of such Municipality; *Provided always*, that the several Municipalities shall not be held answerable for any deficiency arising from abatements or inability to collect any tax on personal property.

Debentures
may be issued
on the
credit of the
Non-Resident Land
Fund, &c.

By whom to
be negotiated.

70.—*And be it, &c.,* That it shall be lawful for the Municipal Council of the County from time to time, by By-law, to authorize the Warden to issue Debentures upon the credit of the said Non-Resident Land Fund for sums not less than Twenty-five Pounds each, so that the whole of the Debentures, at any time issued and unpaid, shall not exceed two-thirds of all the arrears then due and accruing upon the lands in the County, together with such other sums as may be in the Treasurer's hands, or otherwise invested to the credit of the said fund; and such Debentures shall be negotiated by the Warden and Treasurer of the County, and the proceeds shall be paid into the said fund, and the interest thereon, and the principal, as they fall due, shall be payable out of the said fund, and such Debentures shall in no case be at a longer date than eight years.

Payment of
interest on
such Debentures
provided for.

71.—*And be it, &c.,* That if at any time it shall occur, that there shall not be in the Non-Resident Land Fund moneys sufficient to pay the interest upon any Debenture, or to redeem the same when due, such interest or Debentures shall nevertheless be payable out of the General County Funds, and the payment thereof may be enforced in the same manner as is by law provided in the case of other County Debentures.

72.—*And be it, &c.,* That it shall be lawful for the Municipal Council of the County, from time to time, to pass By-laws apportioning the surplus moneys in the Non-Resident Land Fund amongst the several Municipalities, ratably according to the moneys received and arrears due on account of the Non-Resident lands in each Municipality; but such apportionment shall always be so limited that the Debentures unpaid shall never exceed two thirds of the whole amount to the credit of such fund.

Surplus of the Non-Resident Land Fund to be divided among Municipalities.

73.—*And be it, &c.,* That the Treasurer shall not be entitled to charge to, or receive from the person paying taxes, any per centage thereon, but may receive from the fund such per centage upon all moneys in his hands, or such fixed salary in lieu thereof, as the County Council may by By-law direct.

Treasurer's per centage or salary, how paid.

74.—*And be it, &c.,* That it shall be the duty of the County Treasurer to prepare and submit to the County Council at its first Session in January every year, a Report, certified by the Auditors, of the state of the non-Resident Land Fund, which Report shall contain an account of all the moneys received and expended during the year, ending on the thirty-first of December next preceding, distinguishing the sums received on account of and paid to the several Municipalities, and received and paid on account of interest or Debentures negotiated or redeemed, and the sums invested and balance in hand; a list of all Debentures then unpaid, with the dates at which they will become due; and a statement of all the arrears then due, distinguishing those due in each Municipality, and the amount due on Lands then advertised for sale, and which by law may be advertised during the ensuing year; and it shall be the duty of the Warden to cause a copy of such Report to be transmitted to the Provincial Secretary for the information of the Governor General.

Annual statement of the said Fund to be submitted to the County Council by the Treasurer; what it shall shew.

Copy to be transmitted to Provincial Secretary.

75.—*And be it, &c.,* That whenever in the foregoing Sections providing for the collection, funding and management of the arrears of taxes on the land of non-Residents, the words, "County," "Treasurer" and "Sheriff" occur, such words, as far as relates to the collecting, funding and managing the arrears of taxes on the lands of non-Residents in Cities, shall be held to mean respectively, "City," "Chamberlain" and "High Bailiff."

Interpretation of certain words in foregoing sections.

RESPONSIBILITY OF OFFICERS.

76.—*And be it, &c.,* That every Township, Village, Town or County Treasurer, or City Chamberlain, and every Collector, before entering upon the duties of his office, shall enter into a

Treasurers and Collectors to give security, and how.

bond with two or more sufficient sureties, in such sum as the Municipal Council of the County or the Township, Village, Town or City Council shall require by any By-law to be passed in that behalf, and in the manner required by such By-law, and in conformity to all the provisions thereof, and such sureties shall be to the satisfaction of such Municipal Corporations respectively, and such bond shall be to the Township, Village, Town, City or County, by its corporate name, and shall be conditioned for the faithful performance of the duties of such Treasurer, Chamberlain or Collector.

Penalty on Assessors or Clerks failing to perform their duty: and how such penalty shall be enforced.

Other Assessors may act for those in default.

77.—*And be it, &c.,* That if any Assessor or Clerk shall refuse or neglect to perform any of the duties required of him by this Act, he shall, for every such offence, upon conviction thereof before the Recorder's Court of any City, or before the Court of General Quarter Sessions of any County in which he shall be Assessor or Clerk, forfeit the sum of Twenty-five Pounds to Her Majesty, Her Heirs and Successors; and if any Assessor shall neglect, or from any cause omit to perform his duties, the other Assessor or Assessors for the same locality, if there be more than one, or either of them, shall, until a new appointment perform his duties, and shall certify upon their Assessment Roll the name of such delinquent Assessor, and shall state, if he or they know it, the cause of such omission.

Punishment of Clerks, Assessors or Collectors, making any fraudulent assessment, collection, &c.

Evidence of such fraud.

78.—*And be it, &c.,* That if any Clerk, Assessor or Collector, acting under this Act, shall make any unjust or fraudulent assessment or collection, or copy of any Assessors' or Collector's Roll, or shall wilfully and fraudulently insert the name of any person who should not have been entered in such Roll, or omit the name of any person who should have been entered in such Roll, according to the true intent and meaning of this Act, or shall wilfully omit any duty required of him by this Act, he shall be guilty of a misdemeanor, and upon conviction thereof before any Court of competent jurisdiction, he shall be liable to a fine not exceeding Fifty Pounds (and to imprisonment until the fine shall be paid,) or to imprisonment in the Common Gaol of the County or City, for a period not exceeding six calendar months, or to both, in the discretion of the Court whose duty it shall be to pass the sentence of the law on such offender; and proof to the satisfaction of the Jury, that any real property was assessed by such Assessor at an actual or yearly value, greater or less than its true actual or yearly value, by thirty per centum thereof, shall be *prima facie* evidence that such assessment was fraudulent and unjust, and the Assessor convicted of having made any fraudulent and unjust assessment, shall be sentenced to the greatest punishment, both of fine and imprisonment, allowed by this Act.

79.—*And be it, &c.,* That if any Collector shall refuse or neglect to pay to the Township, Village or Town Treasurer or City Chamberlain, or to such other person as shall be legally authorized to receive the same, the sums contained on his Roll, or duly to account for the same as uncollected, the Treasurer of the Municipality or City Chamberlain shall, within twenty days after the time when such payments ought to have been made, issue a warrant under his hand and seal, directed to the Sheriff of the County, or to the High Bailiff of such City, commanding him to levy such sum as shall remain unpaid and unaccounted for with costs, of the goods, chattels, lands and tenements of such Collector or his sureties, and to pay to the Treasurer of the Municipality or City Chamberlain, the sum so unaccounted for, and to return such Warrant within forty days after the date thereof, which Warrant the said Treasurer or Chamberlain shall immediately deliver to the Sheriff of the County or High Bailiff of the City, as the case may require.

Proceedings for compelling Collectors or Treasurers to account for or pay over moneys in their hands, by warrant to Sheriff or High Bailiff.

80.—*And be it, &c.,* That the Sheriff or High Bailiff to whom the Warrant is directed, shall, within such forty days, cause the same to be executed, and make return thereof to the Treasurer or City Chamberlain, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation which the Collector would have been entitled to retain.

Sheriff, &c., to execute such warrant.

81.—*And be it, &c.,* That if any Sheriff or High Bailiff shall refuse or neglect to levy such money, or any money which he shall be commanded to levy in any Warrant lawfully issued under this Act by any Treasurer or Chamberlain, or to pay over the same, or shall make a false return to such Warrant, or neglect or refuse to make any return, or shall make an insufficient return, it shall and may be lawful for the Treasurer or Chamberlain, to make application in a summary manner upon affidavit of the facts, to either of the Superior Courts of Common Law Jurisdiction in Upper Canada in term time, or to any Judge of either of the said Courts in vacation, for a Rule or Summons calling upon such Sheriff or High Bailiff to answer the matter of such affidavit, which said Rule or Summons shall be returnable at such time as the Court or Judge shall direct; and upon the return of such Rule or Summons, it shall and may be lawful for the Court or Judge to proceed in a summary manner upon affidavit, and without formal pleadings, to hear and determine the matters of such application; and if the Court or Judge shall be of opinion that the Sheriff or High Bailiff has refused or neglected to levy such money, or to pay over the same, or has made a false return or neglected or refused to make any

Sheriff or High Bailiff neglecting to levy under such warrant, &c., to be responsible therefor, and mode of enforcing such responsibility.

return, or has made an insufficient return, it shall and may be lawful for the Court or Judge, and the Court or Judge is hereby required to order the proper officer of such Court to issue a Writ *Fieri Facias* adapted to the case, directed to a Coroner of the County in which the said City or other Municipality is situate, which said Writ shall direct the said Coroner to levy of the goods and chattels of the said Sheriff or High Bailiff, such sum as such Sheriff or High Bailiff may have been ordered to levy by the Warrant of the said Treasurer or City Chamberlain, together with the costs of such application and of execution; and such Writ shall bear date on the day of issuing the same, whether in term or in vacation, and shall be returnable forthwith, and the Coroner executing any such Writ shall be entitled to the same fees and no more, as upon a Writ grounded upon a judgment of the Court.

Fees to
Coroner.

Penalty on
Sheriff or
High Bailiff
wilfully neg-
lecting his
duty under
this Act.

Application
of penalty.

Moneys levy-
able under
the U. C.
Public Build-
ing Act, 13 &
14 Vic. c. 68,
to be assess-
ed &c., in
like manner
as other
local taxes.

To be deem-
ed moneys
collected for
County or
City pur-
poses, so as
to charge the
Collector, &c.

82.—*And be it, &c.* That if any Sheriff or High Bailiff shall wilfully omit to perform any duty required of him by this Act, and no other penalty be hereby imposed for such omission, he shall be liable to a penalty of Fifty Pounds, to be recovered from him in any Court of competent Jurisdiction at the suit of the Treasurer of the County or Chamberlain of the City; and the said penalty, as well as any penalties recovered under the preceding sections, shall be paid to the Treasurer or Chamberlain for the uses of the Municipality or City respectively.

83.—*And be it, &c.*, That all money to be assessed, levied and collected under the authority of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to provide Funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, or under any other Act in force or hereafter to be in force in Upper Canada, by and under which, any moneys raised by local assessment or taxes are payable to the Receiver General of the Province, or to any other Public Officer of this Province, for the public uses of the Province or for any special purpose or use mentioned in such Act, shall be assessed, levied and collected by and accounted for and paid over to the same persons and in the same manner and at the same time, as local taxes, rates or assessments imposed on the same property for County or City purposes; and any such moneys as aforesaid shall in Law and Equity be deemed and taken to be moneys collected for such County or City so far as to charge every Collector, Chamberlain or Treasurer with the same, and to render him and his sureties responsible for the same and for every default or neglect of such Collector, Chamberlain or Treasurer in regard to the same in like manner as

for or with regard to moneys to be assessed, levied and collected for the use of such City or County.

84.—*And be it, &c.,* That all moneys collected by any Township, Town or Village Collector for County purposes or for any of the purposes mentioned in the next preceding section, are and shall be payable by such Collector to the Township, Town or Village Treasurer, and by him to the County Treasurer, and that the Township, Town or Village Municipality is and shall be responsible for all such moneys to the County Municipality, and that any bond and security given by any Collector or Treasurer to the Township, Town or Village Municipality, that he will duly account for and pay over all moneys collected or received by him, does and shall apply to all moneys collected or received by such Collector or Treasurer for County purposes, or for any of the purposes mentioned in the next preceding section.

How such moneys shall be paid over when collected.

Local Treasurer to be accountable for them.

85.—*And be it, &c.,* That the Treasurer of every Township, Town or Village, shall within fourteen days after the time appointed for the final settlement of the Collector's Rolls, pay over to the Treasurer of the County all moneys which were assessed and by law required to be levied and collected in the Municipality for County purposes, or for any of the purposes mentioned in the eighty-third section of this Act, (retaining for his fees two and a half per cent. thereon,) and if default is made in such payment, the County Treasurer may retain or stop a like amount out of any moneys which would otherwise be payable by him to such Municipality, or may recover the same by a suit or action for debt, or may, whenever the same has been an arrear for the space of three months, by Warrant under his hand and seal, reciting the facts, direct the Sheriff of the County to levy and collect the amount so due with interest and costs from the Municipality in default; and the Sheriff upon the receipt of such Warrant shall proceed to levy and collect the said amount, as if the said Warrant had been a Writ of Execution issued by a competent Court of law, and he shall levy the said amount in the same manner and shall charge the same costs as is provided by the one hundred and seventy-ninth section of the Municipal Corporations Act of one thousand eight hundred and forty-nine, in cases of Writs of Execution.

Treasurer of Township, &c., to pay over money raised for County purposes, to the County Treasurer.

Mode of enforcing such payment.

How the Sheriff shall levy the amount.

86.—*And be it, &c.,* That the County Treasurer or City Chamberlain shall be accountable and responsible to the Crown for all the moneys to be assessed, levied and collected for any of the purposes mentioned in the eighty-third section of this Act, and he shall pay over such moneys to the Receiver General,

County Treasurer and Chamberlains of Cities to account to the Crown for certain moneys.

less two and a half per cent. to be retained for himself, and the two and a half per cent. retained by the several Township, Town or Village Treasurers as hereinbefore authorized.

Counties and Cities to be responsible to the Crown and other parties that the moneys coming into their Treasurer's hands shall be duly accounted for and paid over.

Treasurer and his sureties to be responsible to City or County, &c.

87.—*And be it, &c.,* That each and every County or City is and shall be accountable and responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the Treasurer or Chamberlain of such County or City in virtue of his office, shall be by him duly paid over and accounted for according to law; and such Treasurer or Chamberlain and his sureties shall be responsible and accountable for such moneys in like manner to the County or City, and any bond or security given by him that he will duly account for and pay over moneys coming into his hands belonging to such County or City, shall be taken and shall apply to all such moneys as are first above mentioned in this section, and may be enforced against such Treasurer or Chamberlain in case of default on his part, duly to account for and pay over any such moneys; and that if such default shall relate to school moneys or other public moneys of the Province, Her Majesty may enforce the responsibility of the County or City, by stopping or retaining a like amount out of any public moneys which would otherwise be payable to such County or City, or to the Treasurer or Chamberlain thereof, or by suit or action against such Corporation; and any party aggrieved by the default of any such Chamberlain or Treasurer may recover the amount due or payable to him, from the Corporation of such City or County, as money had and received to his use.

MISCELLANEOUS.

Penalty for tearing down notices, &c., posted up.

88.—*And be it, &c.,* That if any person shall wilfully tear down, injure or deface any Assessment Roll, advertisement, notice, or other document, which is required by this Act to be posted up at some public place for the information of all persons interested, he shall, on conviction thereof in a summary way before any Justice of the Peace, or any other person acting in that capacity, and having jurisdiction in the locality, be liable to a fine of Five Pounds.

Recovery of fines imposed by this Act.

89.—*And be it, &c.,* That the fines and forfeitures authorized to be summarily imposed by this Act, when it is not otherwise herein provided, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant of Distress for that purpose, to be issued by the Justice or other person before whom the conviction shall have been had; and in case there shall be no goods or chat-

tels to satisfy such Warrant, such offender shall and may be committed to the Common Gaol of the County for any period not exceeding one month.

90.—*And be it, &c.,* That this Act shall apply solely to that part of the Province called Upper Canada; that the Interpretation Act shall apply to this Act; that the words "County" and "Township" shall be held to include Unions of Counties and Townships while such Unions shall continue; and that the word "Ward" shall not be held to extend to or apply to any rural ward in any township; and the words "County Council" shall include "Provisional County Council," unless there be something in the subject or context repugnant to such construction.

Extent of Act.

Interpretation clause.

91.—*And be it, &c.,* That this Act shall commence and have force and effect upon, from and after the first day of January, one thousand eight hundred and fifty-four, and not before, except the section next following, which shall come into force immediately after the passing of this Act.

Commencement of Act.

Exception.

92.—*And be it, &c.,* That if any new Municipality has been erected or set apart within any County so that there shall be no Assessment Rolls of such new Municipality for the year one thousand eight hundred and fifty-two, and that the just share of any County tax for the year one thousand eight hundred and fifty-three cannot be ascertained according to the provisions of the Assessment Law Amendment Act of 1851, the County Council shall nevertheless at the meeting to be held on the third Monday in June of the current year, in order to equalize the Assessment Rolls, examine the Rolls of one thousand eight hundred and fifty-two, of the former Municipality or Municipalities of which such new Municipality then formed part, and ascertain to the best of their judgment, what part of the assessment of such Municipality had relation to the new Municipality, and what part should continue to be accounted as the assessment of the original Municipality, and their several shares of the County tax for the year one thousand eight hundred and fifty-three, shall be apportioned between them accordingly.

Case of new Municipalities in any County provided for, as regards their share of County taxes for 1853.

93.—*And be it, &c.,* That in citing and referring to this Act in any Statute, pleading, instrument, or otherwise, it shall be sufficient to use the expression "The Consolidated Assessment Act of Upper Canada, 1853."

Short title of Act.

SCHEDULE A.

- Column 1, Name of taxable party.
 Column 2, Number of Concession, Street, Square or other designation of the local division in which the real property lies.
 Column 3, Number of Lot, House, &c., in such division.
 Column 4, Number of Acres, or other measures, shewing the extent of the property.
 Column 5, Rental of each separate parcel of real property.
 Column 6, Yearly value of each separate parcel, when the rental is not assessed.
 Column 7, Actual value of each separate parcel.
 Column 8, Actual value (or yearly value) of all the real property of the party assessed.
 Column 9, Amount of taxable income.
 Column 10, Total value of personal property.
 Column 11, Yearly value of the same.

N.B.—Columns 5, 6, and 11 apply only to Cities, Towns, and Villages, and Column 7 only to Townships.

SCHEDULE B.

Appeals to be heard at the Court of Revision, to be held at — on the — day of —.

APPELLANT.	RESPECTING WHOM.	MATTER COMPLAINED OF.
A. B.	Self.	Overcharged on land.
C. D.	E. F.	Name omitted.
G. H.	I. K.	Not <i>bona fide</i> occupant.
L. M.	N. O.	Persn'l prop'ty underehg'd.
&c.	&c.	&c.

SCHEDULE C.

Take notice that you are required to attend the Court of Revision at — on the — day of — in the matter of the following appeal:

Appellant — G. H.

Subject — (that you are not a *bona fide* occupant).

To J. K.

Signed,

X. Y.

Township Clerk.

16 VIC.—CAP. 183.

An Act to provide for the recovery of the Rates and Taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada.

[Assented to 14th June, 1853.]

WHEREAS the *District Councils* of several of the late *Districts* of Upper Canada, intending to carry into effect the enactments of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local and Municipal authorities therein*, have, since the passing of the said Act, passed divers By-laws imposing rates or taxes on lands in the said *Districts*, and the rates or taxes so imposed, have been paid by the great majority of the inhabitants and land-holders therein; *And whereas* it appears that the total sum or sums to be raised under such By-Laws, and the purposes to which they were to be applied, were not first determined by some of the said *District Councils*, and the sums afterwards apportioned and rated on the lands in the said *Districts*, but a certain rate or tax of so much per acre was at once imposed on such lands, and that the said By-laws, or some of them, were otherwise informal, and contained provisions not strictly in accordance with the said Act; *And whereas* doubts may exist as to the true meaning and intention of the forty-first Section of the said Act, and it is expedient to remove any such doubts as to the powers intended to be conferred on such *District Councils* of imposing rates or taxes upon lands, and to legalize such rates as, if defective in form, were not inconsistent with the true intent and spirit of the Act above recited; *And whereas* in several of the said *Districts* certain lands were sold for arrears of taxes which had accrued under the said By-laws, and it is expedient to remove any doubts which may exist as to the legality of such sales, and to confirm them with such provisions and limitations as shall secure the owners of the lands from any injustice: *Be it, &c.*, That from and after the passing of this Act, no By-law of any of the late *District Councils* of Upper Canada shall be quashed on account of any want of form, or on account or any of the provisions thereof not being in strict accordance with the letter of the Act hereinbefore recited, so long as such provisions are in accordance with the true intent and meaning of this Act.

Preamble.

4 & 5 Vic. c.
10.

Certain By-laws of late District Councils to be good if consistent with this Act.

Certain rates imposed by such By-laws confirmed.

Proviso.

Proviso.

Rate imposed by Act of U. C. 59 Geo. III. c. 8, merged in tax imposed by said By-laws in certain cases.

Otherwise in certain other cases.

2.—*And be it, &c.,* That any rate or tax, or rates or taxes, intended to be imposed on the lands in any of the late *Districts* of Upper Canada, by any By-law or By-laws heretofore passed by the *District Councils* thereof, and not disallowed by the Governor, or quashed by any Court of competent jurisdiction, shall be held to be valid and justly chargeable on such lands, so long as the same did not in the whole exceed One Penny Half Penny currency, per acre, in any one year: *Provided always*, that no increase or accumulation of such rates, intended to be imposed or charged by any such By-law, in consequence of the non-payment of such rates, shall be held to be valid or chargeable on the said lands: *Provided also*, that if any such By-law or By-laws shall have taxed the land in any *District* by the acre unequally so that a different tax was intended to be levied in different Townships or localities, or a different tax upon unoccupied land from that at which land was rated on the Assessment Rolls, the whole of the land in such late *District* shall be held chargeable only with the lowest tax per acre at which any of the land was so intended to be rated: *Provided also*, that nothing in this Act shall be held to make lawful any By-law disallowed by the Governor or quashed by any Court of competent jurisdiction as aforesaid, or the tax imposed by any By-law which rated or intended to rate unoccupied land only, and not all land.

3.—*And be it, &c.,* That if the By-laws of any of the late *District Councils* shall have taxed or rated land by the acre at such an amount that the rate so imposed, together with the tax of one eighth of a Penny per acre, charged on unoccupied land, in lieu of Statute labor, by the act of Upper Canada, passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair the Public Highways and Roads in this Province*, would in the whole amount to more than One Penny Half Penny per acre, the tax of one eighth of a Penny as aforesaid shall be held to have merged in the tax imposed by such By-laws, and the land shall not be held to be chargeable therewith; but if the By-laws of any of the said *District Councils* shall have so taxed or rated the lands, that the *District* tax and the one eighth of a Penny as aforesaid, together, did not exceed One Penny Half Penny per acre, and if the said By-laws did not expressly release the land from the said tax of one-eighth of a penny, but the said tax continued to be demanded and received, from the date of the passing of the said By-law then the unoccupied land shall be held also liable to the tax of one eighth of a penny per acre.

4.—*And be it, &c.*, That any sum or sums of money which shall have been paid to the Collector of any Township, in satisfaction of the rates charged on the Assessment Roll, or to the Treasurer of any *District*, or of any County since the abolition of *Districts*, in satisfaction of any tax upon land, shall not be recoverable, although such rate or tax may have exceeded that which might legally have been chargeable, or may have been imposed by an informal By-law of the said *District* Councils; and no surcharge or additional demand shall be made, if the sums so received by such Collector or Treasurer fell short of what was legally chargeable. And all land for or in respect of which any such rate or tax has been so paid, shall be released from any liability or charge for the year or years in respect of which such tax was paid; but all lands liable to assessment, and upon which payment has not been so made, shall be held chargeable with such tax, as is hereinbefore declared to be chargeable upon it, notwithstanding any informality in the By-laws by which such tax was intended to be imposed, provided that such By-laws shall not have been disallowed or quashed as aforesaid.

As to taxes already collected in *Districts*, under such By-laws.

In what cases lands shall or shall not be chargeable with such taxes.

5.—*And be it, &c.*, That the subsequent repeal of any By-law of any *District* Council shall not be construed to have extinguished the arrears of the taxes imposed or intended to be imposed by such By-law, and which were due for the years previous to the repeal of the By-law: *Provided always*, that nothing herein contained shall be construed to continue the tax for the year in which such By-law was repealed, and another By-law passed in place thereof; but in all such cases the tax or arrear of tax shall for that year be taken to be that imposed by the repealing By-law.

Repeal of by-law did not extinguish arrears.

Proviso.

6.—*And be it, &c.*, That within six months after the passing of this Act, it shall be the duty of the Treasurer of every County in Upper Canada, and he is hereby required to make out, a list of every Lot or part of Lot in this County, upon which any taxes may appear to be unpaid and in arrear, whether the said taxes accrued before or after the establishment of *District* Councils. And he shall set down opposite each Lot or part of Lot the total sum which shall appear to be so due and in arrear up to the first day of January, eighteen hundred and fifty-three, including in such total sum the proportional charge for the cost of the advertisement hereinafter required, and distinguishing the taxes due before any By-law of the late *District* Council came into force, the taxes due under such By-law or By-laws, and the taxes due since the establishment of County Councils. And he shall calculate the

Treasurer of each County to make out a List of Lands on which taxes are in arrear.

What it shall shew.

Calculation of taxes.

Act of U. C.
59 Geo. III.
c. 7.

amount of tax due on each Lot according to the provisions of the Act last above cited or of the Act of Upper Canada, passed in the same year of the same Reign, and intituled, *An Act to repeal the several Laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other ratable property throughout this Province*, and subsequent Acts of the Province of Upper Canada, amending the same, until such time as any By-law of the late *District* in which the land so in arrear was then included, came into force, altering the rate authorized and imposed by the said Acts; and from the time any such By-law as aforesaid came into force, and as long as it continued in force, he shall calculate the tax according to such of the provisions of this Act as define the rates and taxes which shall be chargeable upon the land in respect of the rates intended to be imposed by the By-laws of such *District* Councils.

Such Lists to
be adver-
tized; and in
what papers.

See 18 Vic. c.
140.

Lands not
to be sold
during the
present year.

Provision
touching
lands sold
for taxes im-
posed by By-
laws which
have not
been quash-
ed.

List to be
published,
&c.

Proviso: cer-
tain lands so
sold not to be
included.

7.—*And be it, &c.*, That the Treasurer of each and every County in Upper Canada, shall cause such list of lands and arrears of taxes to be advertised for the space of one month in the Government Official Gazette, and in some one newspaper published within the County, or if none be so published in some newspaper in an adjoining County, and no other advertisement of lands in arrears for taxes shall be required to be made, and no such arrears shall be included in the Collector's Roll, and no lands shall be sold for the non payment of such arrears during the present year; any thing in the Upper Canada Assessment Act of 1850 to the contrary notwithstanding.

8.—*And be it, &c.*, That in case any lands have been sold for arrears of taxes, any part of which were calculated and claimed to be due under any By-law of any of the late *District* Councils, which has not been quashed as aforesaid the Treasurer of the County in which such lands were situated shall within three months after the passing of this Act, prepare and advertise as aforesaid a list of all the lands so sold and not afterwards redeemed, which list shall shew the date of sale, the amount for which the land or any portion of it was sold, the amount of tax, which was justly chargeable upon the land according to the provisions of this Act, up to the date when it was advertised previous to such sale, and also all the taxes which have been paid upon the land since the date of the sale: *Provided always*, that if in any *District* no By-law was passed imposing a rate on unoccupied land, or a By-law was passed which did not vary the tax to which such land was

liable under the Assessment Laws then in force in Upper Canada, it shall not be necessary to advertise the lands sold in any such *District*, nor shall the lands so sold be liable to be redeemed in the manner provided by the Section of this Act next following.

9.—*And be it, &c.,* That at any time within one year after the date of the first publication of the advertisement required to be made by the next preceding Section, it shall and may be lawful for the owner of any Lot or parcel of land, or for any one duly authorized on his behalf, to pay to the said Treasurer the amount justly chargeable on the land, as is hereinbefore provided, and interest thereon from the date of such sale to the date of payment, together with all taxes which have been paid by the purchaser subsequently to the sale of such lands, which payment shall be carried by the Treasurer to the account of the County; and the said Treasurer shall thereupon, without any charge, give to the person so redeeming a Certificate, in the form prescribed in the Schedule appended to this Act, and marked A, that the land has been redeemed, which Certificate the Registrar of the County is hereby required to register, upon the payment to him of a fee of Two Shillings and Six Pence, and such Certificate, and the registry thereof shall annul and make void the Deed formerly executed by the Sheriff to the purchaser of the land for arrears of taxes, and shall re-convey the land to the former owner, and give him right to the possession thereof as fully as if no such Deed of the Sheriff had been executed: *Provided always*, that if there shall be any improvements upon the land, and the land shall be in the occupation or possession of any person having a *bona fide* title or claim thereto, either as the purchaser at the sale for taxes or by Deed, Bond, or Written Agreement to sell from the purchaser, or from any person claiming through such purchaser, the original owner, before re-entering into possession, shall pay to such occupant reasonable compensation for his improvements made at any time after the expiration of one year from the date of sale and before the passing of this Act, and such compensation shall be determined in the manner and with the forms provided in case of erroneous surveys by the forty-ninth and fiftieth Sections of the Act passed in the twelfth year of Her Majesty's Reign, and intituled *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province*, unless the said original owner choose rather to tender, and do tender to the said occupant a good and valid title to the land upon condition

Owners of lands included in List may redeem them, and within what time and on what conditions.

Certificate of redemption.

Fees.

Proviso as to improvements on such lands.

Compensation to be determined under 12 Vic. c. 35.

Exception.

of his paying him the actual value thereof only, to be determined as aforesaid, in which case, and in default of such occupant paying such value within six months after the determination thereof as aforesaid, the said original owner shall have an absolute and unconditional right to evict such occupant and re-enter into possession of the land; and all costs incurred under this proviso shall be paid in any case by the occupant.

List of redeemed
Lands to be
published.

Repayment
to pur-
chasers.

Cancelling
Deeds sur-
rendered of
lands re-
deemed.

Sales of land
not so re-
deemed con-
firmed; as if
made under
Assessment
Law, 12 Vic.
c. 80.

10.—*And be it, &c.,* That one year after the date of the advertisement required to be made by the eighth section of this Act, it shall be the duty of the Treasurer aforesaid to publish in the manner required for the other advertisements before mentioned, a list of all lands previously sold for taxes and conveyed by the Sheriff, but which have been redeemed in the manner provided by the ninth Section; And the said Treasurer shall at any time after the redemption of the land, upon the demand of the purchaser, and the surrender by him of the Sheriff's Deed, pay out of any County money in his hands the sum for which the land was sold by the Sheriff, and the cost of the Sheriff's Deed and registry thereof, together with the interest upon the whole of such sums from the date of the sale to the date of redemption and the amount of all taxes which have been paid by the purchaser subsequently to the sale of such lands; and if the Treasurer shall refuse or neglect to pay the same, such total sum and interest shall become a debt due by the County Council of such County, and shall be recoverable in the manner provided by law for the recovery of other debts. And the Treasurer shall cancel the Deed so surrendered to him, by writing across the face of it a Certificate in the form prescribed in the Schedule appended to this Act, marked B, and he shall deliver the Deed so cancelled to the Registrar of the County in which the land is situate, who is hereby required without any charge to file it with the Certificate of the redemption of the same land.

11.—*And be it, &c.,* That if any land sold for arrears of taxes as aforesaid shall not have been redeemed in the manner and within the period allowed and provided by this Act, such sales shall be confirmed and held valid as fully as if they had been made under the authority of the Assessment laws in force in Upper Canada, previous to the passing of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal the Acts in force in Upper Canada, relative to the establishment of Local and Municipal Authorities and other matters of a like nature*, and the arrears on account of which the sales took place, had not comprised any taxes imposed or intended to be imposed by any By-law of the late *District*

Councils: *Provided* that at the time of such sale the taxes Proviso.
 (whether imposed by such By-law or by the said Assessment
 Laws of Upper Canada, or both) wherein arrear to the extent
 required by the said Assessment Laws in order to justify the
 sale of the lands, and that all the requirements of the said
 Assessment Laws relative to such sales, were complied with:
Provided also, that nothing herein contained shall be held to Proviso.
 make valid the title to any lands which shall have been
 adjudged to be invalid by any Court of competent jurisdiction,
 or in any way to make void any judgment in any of the Super-
 ior Courts of Upper Canada, or to affect any suit pending
 therein in which the validity of any such By-law may have
 been called in question.

12.—*And be it, &c.*, That whenever the words “owner,” Interpreta-
tion clause.
 “purchaser” and “occupant” occur in this Act, or the words
 “he” or “his,” or other words designating the owner, pur-
 chaser or occupant, such words shall be construed to mean
 such persons or their heirs, executors or assigns, and to include
 the singular or plural, masculine or feminine, as the case may
 be; and the word “County,” shall be construed to include
 Union of Counties.

SCHEDULE A.

I, _____ Treasurer of the County (or United Counties) of
 _____ do hereby certify, that I have received from _____
 the sum of _____ being the whole amount payable accord-
 ing to the provisions of an Act of the Province of Canada,
 passed in the sixteenth year of Her Majesty's Reign, intituled,
An Act to provide for the recovery of the rates and taxes in-
tended to be imposed by certain By-laws of the late District
Councils of Upper Canada, and chaptered _____ in redemp-
 tion of lot (or part of lot, describing it or _____ acres of lot,
as the case may be), number _____ in the _____ Concession
 of the Township of _____, which was sold by the Sheriff of
 the District of _____ (or County of _____) for arrears of
 taxes on the _____ day of _____ in the year _____

Dated _____

(Signed.)

SCHEDULE B.

This Deed is cancelled by me _____ Treasurer of the
 County (or United Counties) of _____, the land described
 therein having been redeemed on the _____ day of _____
 in the year _____.

Dated _____

(Signed,)

16 VIC.—CAP. 186.

An Act to amend the Laws relating to Grammar Schools in Upper Canada.

[Assented to 14th June, 1853.]

Notice to be given touching the apportionment aforesaid.

Apportionment to be payable half yearly.

Proviso.

Apportionment to be expended solely in paying teachers.

3.—*And be it, &c.,* That the Chief Superintendent of Schools for Upper Canada shall, on or before the first day of May in each year, notify each County Council, through the Clerk of the Council, of the annual apportionment of Grammar School moneys to such County, and shall give notice of the same to the Inspector General; and such moneys shall be payable to the Treasurer of each County entitled to receive it, one half on or before the first day of July, and the other half on or before the thirty-first day of December, in each year, in such manner as may be determined by the Governor: *Provided always,* that the sum or sums raised by local assessment or subscriptions for the support of Grammar Schools shall be payable each year on or before the fourteenth day of December.

4.—*And be it, &c.,* That the sum or sums of money annually apportioned to each County, as provided in the first section of this Act, shall be expended in the payment of the salaries of teachers, and for no other purpose.

16 VIC.—CAP. 219.

An Act conveying to the City of Toronto certain Water Lots, with power to the said City for the construction of an Esplanade.

[Assented to 14th June, 1853.]

Preamble.

Letters Patent of U. C. 21st Feb. 1840, recited.

Order in Council 17th Aug. 1837.

WHEREAS by Letters Patent, under the Great Seal of the Province of Upper Canada, bearing date the twenty-first day of February, in the year of our Lord, one thousand eight hundred and forty, certain water lots or tracts of land covered with water, situate in front of the said City of Toronto, and certain parcels or slips of land situated between the top of the bank and the water's edge of the Bay, in the said City of Toronto, adjoining to the said water lots, were under the direction of an Order in Council of the 17th August, 1837, granted to the Mayor, Aldermen and Commonalty of the said City of Toronto, and their successors for ever, upon trust, to lease the said water lots, or apply them to and for the public purposes of the said City, as the Common Council of the said City of Toronto, from time to time, might think fit to order or direct: And upon the further trust that within three years from

the time the said City of Toronto should occupy any of the said water lots for the uses of the said City, or lease the same, an Esplanade of one hundred feet in width, of such materials and plan as the said City of Toronto, by Act of Common Council, might order and direct, should be erected and built in front of the said lots by the said City, or the lessees of the said lots respectively, at the place designated by the letter C, on the Record maps of the Crown Land Department, and designated by the letter O upon a plan of the said City and water lots annexed to the said Letters Patent, subject also to the condition that the said Esplanade shall be kept in repair by the City or its lessees, as provided for by Order in Council of 17th August, 1837; and upon the further trust, that so soon as the proprietors of such water lots, in front of the said City of Toronto, as had been granted previously to the date of the Letters Patent hereinbefore in part recited, should comply with the terms of the said Letters Patent, and build the said Esplanade in front of their respective lots, according to the said plan adopted by the said City of Toronto, and in the place designated on the map annexed to the said Letters Patent, to convey to such proprietors the extension of the water lots adjoining to their respective lots, as by the said Letters Patent and the map annexed thereto is provided and described, and also to convey to the owners of the water lots, according to their respective estates, pieces of land at the foot of the bank, subject to such general regulations as to buildings and general improvements under the direction of the Corporation, as may be devised by the Corporation of the said City; And whereas most of the said water lots so granted to the said City of Toronto, have been leased by the said City, and the said leases contain a covenant on the part of the lessees, to build the said Esplanade within the time in the said Letters Patent mentioned, and according to the plan adopted by the Common Council; And whereas by a certain license of occupation issued by His Excellency the Governor General, and bearing date the 29th day of March, 1853, which said license of occupation was so issued in conformity with the Orders in Council of the 9th day of December, 1852 and 29th March, 1853, His Excellency gave and granted to the said Mayor, Aldermen and Common Council of the said City of Toronto, and their successors in office, license to occupy certain other parcels of land covered with water and strips of land lying in front of the said City and in the said license of occupation described, with certain reservations in the said license of occupation set forth, to have and to hold to the said Mayor, Aldermen and Common Council of the said City and their successors in office, for and during pleasure,

License of
occupation of
29th March,
1853, under
Orders in
Council of
9th Dec.
1852, and
29th March.
1853, recited.

subject nevertheless to the stipulations, terms and conditions therein mentioned; And whereas the Corporation of the City of Toronto have, by their petition, prayed that authority may be given to the Common Council of the said City to erect the proposed Esplanade in front of and upon the said water lots, according to the conditions of the said Letters Patent, license of occupation and the leases to the several tenants thereof, and to issue Debentures for the payment thereof, payable within twenty years, redeemable by an annual rate to be levied on such holders of the said water lots, whether freehold or leasehold, as are unwilling or unable to make their respective portions of the said Esplanade at their own expense, within twelve months from the first day of January, one thousand eight hundred and fifty-three; And whereas it would greatly conduce to the prosperity and health of the said City of Toronto, that such an Esplanade should be forthwith built, and it is advisable that the prayer of the said Petition be granted: *Be it, &c.*, That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the said City of Toronto to enter into any contract or contracts with any person or persons who may be willing to undertake the same, to erect and build an Esplanade in front of and upon the water lots in the said City, as described in the Preamble and the Letters Patent and License of occupation therein mentioned, of such materials, and according to such plan as the Common Council of the said City of Toronto may have adopted, or may hereafter adopt regarding the same, according to the provisions of the said Letters Patent.

Corporation
may contract
for building
the Espla-
nade, &c.

See 20 Vic.
c. 80.

Corporation
may borrow
money to
build the
same, and
levy a special
rate on
owners of
water lots.

Such special
rate to in-
clude a pro-
vision for a
Sinking
Fund.

2.—*And be it, &c.*, That notwithstanding any Act of the Parliament of this Province to the contrary, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the said City of Toronto, to pass a By-law to raise a loan for such an amount, not exceeding One Hundred and Twenty Thousand Pounds, as may be necessary for the purpose of constructing the said Esplanade, and to issue any number of Debentures, payable in this Province or elsewhere, in sums of not less than Twenty-five Pounds, which may be requisite and necessary therefor, payable in twenty years from the respective dates thereof; and for the purpose of redeeming the same, and paying the interest thereon, it shall and may be lawful to and for the Common Council of the said City of Toronto, in any By-law to be passed authorizing the said Loan of One Hundred and Twenty Thousand Pounds, or any part thereof, and the issuing of Debentures therefor, to impose a special rate per annum to be called "The Esplanade Rate,"

over and above and in addition to all other rates to be levied in each year, which shall be sufficient to form a Sinking Fund of two per cent. per annum for that purpose, over and above the interest payable on such Debentures, which Sinking Fund shall be invested in each year, either in the Debentures provided for by this Act, or in Government Debentures or other Provincial securities.

3.—*And be it, &c.,* That when the Corporation of the said City shall have built and completed that portion of the said Esplanade fronting upon or crossing the water Lots in the said City, after the owners, proprietors or lessees of such Lots shall have failed to construct the same within the time and in the manner herein provided, the City Surveyor of the said City, by an instrument under his hand and seal, shall declare the amount which each of such owners or lessees ought to pay to the said City for the construction of such Esplanade upon and across such water Lots respectively, a copy of which Instrument shall be served on each such owner or lessee respectively, or sent to his address by mail, if his address be known and be within this Province, and not within the said City.

City Survey or to ascertain amount payable by owners of lots on which the City shall have made the Esplanade, and notify them.

If such owner or lessee shall within one month after such service leave with the Clerk of the Common Council of the said City, a notice in writing that he refuses to pay the amount declared by the said City Surveyor, as the sum payable by him in respect of the improvement made across or in front of his Lot, and shall also name an Arbitrator to act on his behalf for the purpose of deciding the value of the said improvement, the Corporation of the said City shall also name an Arbitrator on behalf of the said City, and the two so chosen shall, within three days after the nomination of a person to act for the said City, select a third Arbitrator, and in case they fail to do so, the County Judge of the County of York, or of any Union of Counties for the time being, of which the County of York may be one, shall appoint such third Arbitrator; and the award or determination of such Arbitrators, or any two of them, shall be final as to the amount chargeable on the said water lots respectively, and the owners thereof for such improvement; but if such owner or lessee shall not leave such notice as aforesaid with the City Clerk within one month as aforesaid, then the certificate of the City Surveyor shall be conclusive as to the amount to be paid by such owner or lessee:

Provision for arbitration, if any such owner declares himself dissatisfied with the amount so ascertained.

Otherwise certificate of City Surveyor to be conclusive.

Provided always, that if such owner or lessee be an infant, or non compos mentis, or under any other disability to act for himself, or be absent from the Province or unknown, and there

Provision if the owner be unable to act, absent, &c.

be no person in this Province known to be legally authorized to act for him in the matter upon or to whom the copy of the Instrument made as aforesaid by the City Surveyor can be served or sent, then the County Judge aforesaid, on the application of the Corporation of the City, and on being satisfied by affidavit of such fact, shall appoint an Arbitrator to act for such owner or lessee, and the said Corporation shall appoint another, and the two Arbitrators so appointed shall before they act as such appoint a third, or if they cannot agree, then the said County Judge on the application of either of them, (after notice to the other of such application) shall appoint the third Arbitrator, and the award of the said Arbitrators or of any two of them, shall be conclusive as to the amount to be paid to the said Corporation by such owner or lessee :

Sum finally
ascertained
to be a
charge on
the land:
and payable
in 20 equal
annual in-
stalments.

When the amount to be paid as aforesaid shall have been conclusively ascertained by the certificate of the City Surveyor or the award of Arbitrators as hereinbefore provided, then a memorandum of such certificate or award may be registered in the Office of the Register of Deeds for the County, and being so registered, the sum therein mentioned shall thereafter be a charge upon the lands in respect of which it is payable, and the said sum shall be payable to the Corporation of the said City, in twenty equal annual instalments, to become due on the thirty-first day of December in each year, after such registration as aforesaid, with interest from the same date, (or from the day up to which the interest shall have been paid, as the case may be,) on so much of the said sum as shall be then unpaid, and the said instalments and interest shall and may be collected, and if not paid may be recovered from the owners or occupiers of the said lands for the time then being, in like manner, with the same accumulations, and subject to the same provisions as local taxes in the said City, and if the same be not so paid or recovered, then the said lands may be sold in like manner as the lands of non-residents may be sold for non-payment of the local taxes thereon, and the said instalments and interest and all lawful charges shall be paid out of the proceeds of such sale, and if the proceeds of the sale be more than sufficient to pay the same, the surplus shall be returned to the owner of the said lands when applied for by him :

How recover-
able if not
paid.

Application
of moneys
received
under this
section.

Any sums received by the Corporation of the said City under this Section, shall be applied towards the payment of the principal and interest of the Debentures issued under the authority of this Act, and shall be invested and applied in the manner provided in like cases by the Upper Canada Municipal Corporations Acts.

4.—*And be it, &c.,* That the memorandum of the certificate or award hereinbefore mentioned, signed by the said City Surveyor, or any two of the said Arbitrators, (which may be in the form or to the effect mentioned in the Schedule hereunto annexed marked A) shall be registered by the Register of the County of York, without any further evidence of the execution of the said memorandum than the signature of the persons who purport to sign the same, but there shall be produced to such Register at the same time, the original certificate of the said City Surveyor, and the original appointment in writing of the Arbitrators, when such memorandum is signed by Arbitrators, together with their award, which papers shall be filed by the said Register with the said memorandum, and for filing such papers and registering such memorandum for each lot or parcel of land such Register shall receive the sum of Two Shillings and Six Pence, and no more.

On what proof the Memorandum of City Surveyor or the Award shall be registered.

5.—*And be it, &c.,* That any By-law to be passed under this Act, shall not be repealed until the debt or debts created by this Act, and the interest thereon, shall be paid and satisfied, and that the *one hundred and seventy-eighth section of the Municipal Corporations Act of Upper Canada* shall extend to any By-law passed under this Act.

By-law imposing the rate not to be repealed until debt and interest are paid.
See 22 Vic. c. 99, s. 231.

6.—*And be it, &c.,* That it shall be the duty of the Chamberlain of the said City of Toronto, for the time being, to keep a special account of the said Debentures, and to carry the amount received by him arising from the special rate so to be imposed as aforesaid to such account, and to appropriate all and every the sum and sums of money received by him on the said account solely to the liquidation of the principal and interest of the said Debentures.

Duty of the Chamberlain under this Act

7.—*And be it, &c.,* That so soon as the said Esplanade shall be completed in the manner above mentioned, and the general regulations as to buildings and improvements under the direction of the Corporation upon the system devised by them, shall have been complied with, the Mayor, Aldermen and Commonality of the said City of Toronto shall forthwith convey to the several and respective owners of the said water lots entitled to the same under the said Letters Patent, the several and respective pieces, parcels and strips of land set forth and described by the said Letters Patent, and designated on the map or plan thereto annexed: *Provided always*, that it shall and may be lawful for any of the owners, proprietors or lessees of the said water lots, to erect and build that portion of the said Esplanade, fronting upon or crossing their

Conveyance of lots to the proper persons according to the Trust in the Letters Patent hereinbefore recited.

Proviso.
Annual payments aforesaid to be imposed only on owners

who do not make their share of the Esplanade.

Proprietors may build the Esplanade themselves, on giving notice to the Chamberlain.

Esplanade to be commenced within a certain time.

said respective premises, upon giving notice in writing to the Chamberlain, for the time being, of the said City of Toronto, within two months after the passing of this Act, of his and their intention so to do, and erecting and building and completing the same, according to the conditions of the said Letters Patent and the said map and plan, within one year from the passing of this Act; And the said special rate authorized to be levied by this Act, shall be rated, imposed and assessed upon such only of the said owners, lessees and proprietors of the said water lots as shall neglect to give the said notice, or refuse to erect and build the said Esplanade as aforesaid; And provided always, that the said Mayor, Aldermen and Commonalty of the said City, shall commence the said Esplanade within one year from the said twenty-ninth day of March, one thousand eight hundred and fifty-three, and shall comply with, observe and perform all and every the reservations, limitations and conditions contained in the said License of Occupation mentioned and in part recited in the Preamble to this Act.

Recital of Letters Patent granting land in 1818 in trust for a public walk or mall.

8.—*And whereas* by Letters Patent from the Crown, dated the fourteenth day of July, in the year of our Lord, one thousand eight hundred and eighteen, a certain space or strip of land, denominated by the Letter H, on the plan of the then Town of York, commencing at the top of the bank in the western limit of the old Government Buildings reservation, adjoining the south-east angle of the said Town, then, north sixteen degrees west four chains, more or less, to the southern limit of Palace Street, then along the southern limit of the said street, and also following the southern limit of Market Street and Front Street, until it intersects the western limit of Peter Street at the west end of the said Town: then, south sixteen degrees east five chains, more or less, to the top of the bank, following its several turnings and windings to the place of beginning, containing thirty acres, more or less, with allowance for the several cross streets leading from the said Town to the water, was vested in John Beverly Robinson, William Allan, George Crookshank, Duncan Cameron and Grant Powell, all of the Town of York, Esquires, their heirs and assigns, for ever, in trust to hold the same for the use and benefit of the inhabitants of the then Town of York, as for a public walk or mall in front of the said Town: *Be it, &c.,* That the said Trustees, or the survivors of them, shall have power to transfer and convey the land so held by them as aforesaid to the Mayor, Aldermen and Commonalty of the City of Toronto, to hold the same upon the same trusts and conditions as are expressed in the Letters Patent above refer-

The said land may be transferred to Corporation for purposes of the Esplanade.

red to; or the said Trustees may, at their option, surrender and re-convey the said land to Her Majesty, and the Governor of this Province may thereupon, by an Order in Council, or otherwise, transfer and convey the said land to the said Mayor, Aldermen and Commonalty of Toronto, upon the same trusts and conditions as are above expressed; and the said Mayor, Aldermen and Commonalty of the said City of Toronto shall have power by this Act, either to make the public walk contemplated in the original grant to the Trustees aforesaid, or to continue the Esplanade aforesaid through and in front of the said land, or to make such other improvements upon it, for public purposes, as the said City, by its Mayor, Aldermen and Commonalty, may from time to time deem meet; the said Mayor, Aldermen and Commonalty being empowered by this Act to defray the expense of such last mentioned improvements out of the proceeds of the Debentures by them hereinbefore authorized to be issued as aforesaid.

Esplanade to be made on the said land after surrender thereof and grant to the City.

9.—*And be it, &c.,* That all Documents, Securities, or debentures, *bona fide* executed or issued before the passing of this Act, by or to the said Mayor, Aldermen and Commonalty of the said City of Toronto, in the name of the said City of Toronto, or in any other form of words designating the same, and to which the Corporate Seal of the said City has been *bona fide* affixed, shall be good and valid, notwithstanding any variation in the use of the Corporation name of the said City in such Instruments from the form of words prescribed by the Upper Canada Municipal Corporations Act of 1849.

Certain instruments confirmed, notwithstanding any misnomer of the Corporation of Toronto.

10.—*Provided always, &c.,* That nothing in this Act shall apply to or affect any lands or property vested in the Principal Officers of Her Majesty's Ordnance, or shall be construed as given any power to the Mayor, Aldermen and Commonalty of the City of Toronto, to take, use or occupy any such lands, or to oblige the said Principal Officers to do any thing or allow any thing to be done in respect thereof, or in any way to interfere with or affect the rights of the said Principal Officers.

Right of Ordnance Department saved.

11.—*Provided also, &c.,* That nothing herein contained shall be construed to impair or affect the right of Her Majesty to the land in front of the lot now occupied by the Parliament Buildings at Toronto, and extending from Simcoe Street to John Street, but such land shall be and remain vested in Her Majesty for the public uses of the Province, and that part of the said Esplanade along and upon such land shall be made under the superintendence of the Commissioners of Public Works.

Land in front of Parliament Buildings reserved, and Esplanade thereon to be made by the Government.

Provision touching Railways crossing or carried along &c., the Esplanade.

Compensation by such Company.

Board of Railway Commissioners to settle terminus of any such Railway.

No Debentures under this Act to be disposed of under par

Public Act.

12.—*And be it, &c.,* That it shall not be lawful for any Railway Company to carry their Railway along, upon or across the said Esplanade, without the consent of the Governor in Council, nor if such consent be granted shall any such Railway be carried along, upon or across the said Esplanade, except upon such line or lines, upon such level, in such manner, and subject to such regulations and conditions as the Governor in Council shall, upon the Report of the Board of Railway Commissioners think fit to direct and make; and any Railway Company which shall be allowed to carry their Railway along, upon or across the said Esplanade, shall pay such compensation to the said Corporation as shall be agreed upon by the said Corporation and the Company, or if not so agreed upon, shall be fixed by the said Board of Railway Commissioners, and such compensation if so fixed as last aforesaid, may be fixed at a sum payable once for all or at a certain sum payable periodically; and if any Railway Company whose Railway shall be carried along the said Esplanade, shall be desirous of having a terminus upon or in the vicinity of the said Esplanade, then such terminus may be made at such place, and with such extent of ground, and subject to such other conditions as the said Board of Railway Commissioners shall determine.

13.—*And be it, &c.,* That no Debentures of the said Corporation of the said City of Toronto, to be issued under the authority of this Act, shall be sold by the said Corporation for less than their par value, bearing six per cent. interest per annum.

14.—*And be it, &c.,* That this Act shall be a Public Act.

SCHEDULE A.

ESPLANADE DEBT.

No. of Lot.	Name of Owner.	Description of Land.	Amount chargeable thereon in favor of the City of Toronto for Esplanade improvement.
1	John Jones.	In front of Water Lot No. 5, granted or leased to Joseph Styles, or described as follows, that is to say: — bounded East by, &c.	Forty Pounds. John Doe, } Arbitrators. Rich. Roe, } or Wright Line, City Surveyor.

16 VIC.—CAP. 221.

An Act to continue and extend the Act to enable the County of Welland Municipal Council to purchase the Great Cranberry Marsh, and for other purposes.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 222.

An Act to attach a certain portion of the Township of Kingston, in the County of Frontenac, to the Township of Pittsburgh, for Municipal and other purposes.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 223.

An Act to specify the time when an Act of the present Session, relating to the Townships of Kingston and Pittsburgh, shall come in force.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 224.

An Act to establish the Boundary Lines of Lots in certain Ranges in the Township of Grenville.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 225.

An Act to confirm certain titles in the Township of Aldborough, and rectify difficulties which have arisen from an erroneous Survey.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 226.

An Act to divide the Townships of Yonge and Escott in the United Counties of Leeds and Grenville.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 227.

An Act to vest in the Board of Works, a certain portion of Church Street in the Town of London.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 228.

An Act to confirm a certain Allowance for Road in the Township of Monaghan, and to provide for the compensation of persons suffering loss by the confirmation of such Allowance.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 229.

An Act to invest certain portions of East York street, East Bathurst street, and Wellington Street, in the Town of London, in the Great Western Railway Company.

[Assented to 14th June, 1853.]

16 VIC.—CAP. 230.

An Act to establish the Boundary of Lots in the West Gore in the Township of Beverley.

[Assented to 14th June, 1853.]

18 VIC.—CAP. 2.

An Act to make better provision for the appropriation of Moneys arising from the Lands heretofore known as the Clergy Reserves, by rendering them available for Municipal purposes.

[Assented to 18th December, 1854.]

WHEREAS, &c., *And be it, &c. :—*

Proceeds of Reserves to form two funds, one for U. C. and one for L. C.

1.—The Moneys arising from the Clergy Reserves in Upper Canada shall continue to form a separate Fund which shall be called the Upper Canada Municipalities Fund, and the moneys arising from the Clergy Reserves in Lower Canada shall continue to form a separate Fund, which shall be called The Lower Canada Municipalities Fund :

Of what such funds shall respectively consist.

2.—*And be it, &c.*, The Municipalities Fund for each section of the Province respectively, shall consist of all moneys arising from the sale of Clergy Reserves in that section of the Province, whether now funded or invested either in the United Kingdom or in this Province, or remaining uninvested or hereafter to arise from such sales, the Interest and Dividends of moneys forming part of such Fund, the interest upon sales of Clergy Reserves in that Section of the Province, on credit, and rents, issues and profits arising from Clergy Reserves therein demised or to be demised for any term of years,

and other casual and periodical incomings arising from Clergy Reserves therein, after deducting therefrom the actual and necessary expenses, attending the sales of the said Clergy Reserves and of managing the same and the Funds aforesaid; and the moneys forming the said Funds shall be paid into the hands of the Receiver General and shall be by him applied to the purposes hereinafter mentioned, under the authority of this Act, or any General or Special Order or Orders to be made by the Governor in Council.

Moneys to be in Receiver General's hands for the purposes of this Act.

2.—*And be it, &c.,* The annual stipends or allowances which had been before the passing of the the Act of the United Kingdom, passed in the sixteenth year of Her Majesty's Reign, and cited in the Preamble to this Act, assigned or given to the Clergy of the Churches of England and Scotland, or to any other Religious Bodies or denominations of Christians in either Section of the Province, and chargeable under the Act of the said Parliament on the Clergy Reserves in such Section, (and to which the faith of the Crown is pledged) shall, during the natural lives or incumbencies of the parties receiving the same at the time of the passing of the said Act, be the first charge on the Municipalities Fund for that Section of the Province, and shall be paid out of the same in preference to all other charges or expenses whatever: *Provided always*, that the annual allowance heretofore payable to the Roman Catholic Church in Upper Canada, and to the British Wesleyan Methodist Church for Indian Missions, shall continue to be payable during the twenty years next after the passing of this Act, and no longer.

Annual stipends and allowances charged on the Reserves before the last Imperial Act, to be payable during the lives or incumbency of the present recipients.

Proviso as to certain Religious Bodies.

3.—*And be it, &c.,* And whereas it is desirable to remove all semblance of connection between Church and State, and to effect an entire and final disposition of all matters, claims and interests arising out of the Clergy Reserves by as speedy a distribution of their proceeds as may be: *Be it, &c.,* That the Governor in Council may, whenever he may deem it expedient with the consent of the parties and bodies severally interested commute with the said parties such annual stipend or allowance for the value thereof, to be calculated at the rate of six per cent. per annum, upon the probable life of each individual; and in the case of the Bodies above particularly specified in the second section of this Act, at the actual value of the said allowance at the time of commutation to be calculated at the rate aforesaid; and such commutation shall be paid accordingly out of that one of the Municipalities Funds upon which such stipend or allowance is made chargeable by this Act: *Provided always*, that no commutation shall take place but

Recital.

Provincial government, with consent of parties interested, may commute such stipends, &c., for their value in money.

Proviso.

Proviso :
commuta-
tion money
to Religious
Bodies not to
be invested
in real pro-
perty, &c.

within one year next after the passing of this Act: *Provided also*, that in case of commutation with either of the said Bodies or Denominations, it shall not be lawful for them or either of them to invest the moneys paid for such commutation, or any part thereof, in Real property of any kind whatsoever, under penalty of forfeiting the same to Her Majesty; and that the said Bodies or Denominations shall lay before the Legislature whenever called on so to do, a statement of the manner in which said moneys shall have been invested or appropriated.

Sufficient of
such funds
to be retain-
ed to pay
stipends, &c.
while charge-
able on the
said Funds.

4.—*And be it, &c.*, So long as any such stipend or allowance shall be chargeable upon either of the said Municipalities Funds, a portion of such Fund producing annually interest sufficient to pay every such stipend or allowance then chargeable thereon, shall be retained by the Receiver General, and appropriated for that purpose, and if not already invested shall be by him invested in Public British Securities, or in any Provincial Debentures or Securities which under the Act to establish freedom of Banking or any Act amending the same, may be accepted by the Receiver General in exchange for registered Bank notes, as the Governor in Council shall from time to time direct; and the Receiver General being thereunto authorised by order of the Governor in Council, shall have full power to dispose of any Securities in which such moneys are or shall be invested, and to invest the proceeds in any other such Securities as aforesaid, or to apply them to the payment of the commutation aforesaid.

Investment of
sums so
retained.

Yearly divi-
sion of unap-
propriated
balance
among the
Municipali-
ties in each
section of the
Province
respectively,
according to
population.

5.—*And be it, &c.*, The amount of the Municipalities Fund in and for either Section of the Province remaining unexpended and unappropriated under the foregoing provisions of this Act, on the thirty-first day of December in each year, shall by the Receiver General, be apportioned equally among the several County and City Municipalities in the same Section of the Province, in proportion to the population of such Municipalities respectively, according to the then last Census made either under the Act to provide more effectually for taking a periodical Census of the Province, or any other Act under which Census may be legally taken of the Municipalities in either section of the Province; and the portion thereof coming to each Municipality, shall be paid over by the Receiver General to the Treasurer, Chamberlain or other Officer having the legal custody of the moneys of such Municipality, without other authority than this Act, and shall make part of the General Funds of the Municipality, and be applicable to any purpose to which such Funds are applicable: *Provided always*, that if at the time when such payment is to be

See 19 & 20
Vic. c. 16,
and 20 Vic.
c. 71.

Proviso: if
the Munic-
ipality have

made, any sum of money shall be payable by any such Municipality to the Receiver General for any cause whatever and shall be overdue, he may retain in his hands in satisfaction or part satisfaction thereof, the sum which would otherwise be payable to such Municipality, or so much thereof as may be overdue, and shall deliver to the Treasurer, Chamberlain or other Officer as aforesaid, a discharge in favor of the Municipality for a sum equal to that so retained by him; and for the purposes of this section, each Municipality into which any County in Lower Canada may be at the time divided, and each Union of Counties for Municipal purposes in Upper or Lower Canada, shall be taken to be a County Municipality.

money to
pay to the
Receiver
General.

What shall
be deemed a
Municipality

18 VIC.—CAP. 21.

An Act to make legal the Assessments made in Upper Canada during the year one thousand eight hundred and fifty-four, and to extend the time for making Assessments and collecting taxes.

[Assented to 18th December, 1854.]

WHEREAS in many Municipalities in Upper Canada the Assessments were not completed within the time limited by law, and doubts exist whether Taxes in such Municipalities can be legally collected, and it is advisable to remove such doubts: *Be it, &c.*

Preamble.

1.—All the Assessments made in Upper Canada during the year of our Lord one thousand eight hundred and fifty-four, shall be and are hereby declared to be legal and binding, notwithstanding the Assessors did not complete the same or the Assessment Rolls, or make their returns, within the time fixed by the Statute in that behalf; and the taxes and rates imposed by the Councils of the Municipalities wherein such default or errors have occurred, shall be collected as if the said Assessments and returns had been made and completed according to law.

Assessments
for 1854 in
Upper Can-
ada confirm-
ed.

2.—The twenty-fourth Section of the Statute of this Province passed in the sixteenth year of Her Majesty's Reign, chapter one hundred and eighty-two, shall be, and the same is hereby amended, and the time limited thereby for the completion of Assessments and return of the Assessment Rolls, shall be extended to the first day of May in each year, instead of the fifteenth day of April as thereby limited.

Time allow-
ed by s. 24 of
16 Vic. c. 182,
extended.

3.—In any case where a Collector of any Municipality may have heretofore failed or omitted, he may hereafter fail or omit

Another per-
son may be
employed to

collect taxes which the Collector does not collect by a certain day.

to collect the taxes mentioned in his Collection Roll, or any portion thereof, by the fourteenth day of December, or by such other day in the year for which he may have been or may hereafter be Collector, as may have been or may hereafter be appointed by the Municipal Council of the County, it shall and may be lawful for the Council of such Municipality to authorize and empower by Resolution the said Collector or any other person in his stead to continue the levy and collection of such unpaid taxes in the manner and with the powers provided for by law for the general levy and collection of taxes: *Provided always*, that nothing herein contained shall be held to alter or affect the duty of the Collector to return his Collection Roll, or to invalidate or otherwise affect the liability of the said Collector or his sureties in any manner whatsoever.

Proviso.

18 VIC.—CAP. 23.

An Act to erect the Town of Bytown into a City under the name of the City of Ottawa.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS the Mayor and Corporation of the Town of Bytown, have in behalf of the inhabitants thereof, expressed their desire that the said Town should be erected into a City, to be called the *City of Ottawa*; And whereas from the great and rapidly increasing population and commercial importance of the said Town, it is desirable to comply with their request: *Be it, &c* :

Bytown to become the City of Ottawa, and when.

1.—Upon, from and after the first Monday in January, in the year of our Lord one thousand eight hundred and fifty five, the Town of Bytown shall be a City, and shall be called and known as the *City of Ottawa*, and the first Municipal Election therein as a City shall take place on the said day; and the said *City of Ottawa* shall be bounded in the manner set forth as regards the Town of Bytown in the Schedule B to the Upper Canada Municipal Corporations Act of 1849.

How bounded.

Division into five Wards.

2.—The said *City of Ottawa* shall be and is hereby divided into five Wards, viz: That portion of the City lying easterly from the Rideau Canal shall constitute three Wards, and the portion of the City lying westerly from the Rideau Canal shall constitute two Wards, which latter two Wards shall be divided by the centre of Wellington Street, George street, Victoria Terrace and the concession line known as the Richmond road, to the limits of the City; and the portion lying North of the said streets and road, shall constitute one Ward,

Names of the Wards.

to be called Victoria Ward; and the portion lying south of the said streets, shall constitute a Ward to be called Wellington Ward; the portion of the City lying easterly from the Rideau Canal as aforesaid, shall be divided and called as follows, viz: The whole of Rideau street and the portion of the City, south of it, shall constitute a Ward to be called St. George's Ward; That portion of the City from the line dividing Rideau and George streets and a continuation of such line, terminating on the Rideau Canal in one direction, and on the waters of the river Rideau in another, to the centre of St. Patrick street, and in a continuing line therewith, east and west, to the waters of the rivers Ottawa and Rideau, shall constitute a second Ward to be called By Ward, and the remaining portion lying north of the line above described, on St. Patrick street and the continuation thereof, shall constitute a third Ward, to be called Ottawa Ward.

Victoria.

Wellington.

St. George.

By.

Ottawa.

3.—All the provisions of the Act last cited and of the Upper Canada Municipal Corporations Acts generally, as therein in force, so far as the same relates to Cities, shall, upon, from and after the day last aforesaid, extend and apply to the said City of Ottawa, as if a proclamation had issued more than three calendar months before the said day, erecting the said Town of Bytown into a City by the name aforesaid, so that the first Municipal Election therein, would under the said Acts be held on the said day, and setting forth the boundaries of the said City as hereinbefore mentioned.

Upper Canada Municipal Corporations Acts to apply as to a City.]

4.—This Act may be varied, altered or repealed by any Act to be passed during this present Session.

Act may be altered this Session.

5.—This Act shall be deemed a Public Act.

Public Act.

18 VIC.—CAP. 25.

An Act to confirm a certain survey of the Township of Bedford.

[Assented to 18th December, 1854.]

Survey made by S. M. Benson in 1841 confirmed.

18 VIC.—CAP. 26.

An Act to authorize the Municipal Council of the Township of Otonabee to exchange a Concession Road allowance for another portion of land to be given in lieu thereof.

[Assented to 18th December, 1854.]

Title sufficiently expressive of contents of Act.

18 VIC.—CAP. 27.

An Act to enable the Board of School Trustees of the Town of Chatham, to dispose advantageously of a lot of land appropriated for School purposes in that Town.

[Assented to 18th December, 1854.]

Title sufficiently expressive.

18 VIC.—CAP. 28.

An Act to Incorporate the Town of Whitby, and to define the limits thereof.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS the inhabitants of the Township of Whitby, residing within the boundaries and limits hereinafter described by Petition have prayed the Legislature to incorporate the same into a Town; *And whereas* the population of the same amounts to about two thousand three hundred inhabitants; *And whereas* it is expedient and necessary, and would tend to promote the benefit and convenience of the inhabitants, if the prayer of the said Petition were granted: *Be it, &c.*

Town of
Whitby
constituted.

1.—The tract of land within the boundaries or limits hereinafter described shall be incorporated into a Town to be called and designated as the Town of Whitby.

Provisions
of Upper
Canada Mu-
nicipal Cor-
porations
Acts extend-
ed to the
said Town.

2.—So much of the Upper Canada Municipal Corporations Acts as relates to Towns, shall be and is hereby incorporated in this Act, and the said Town of Whitby shall have and exercise all and singular the same rights, powers, privileges and jurisdiction, as are given, granted or conferred upon, or as shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns, and all the rules, regulations, provisions and enactments therein contained or which shall in any wise relate or belong to the same, shall apply to the Town of Whitby as fully as if the said tract of Land had become a Town under the ordinary operation of the said Acts, with the exception hereinafter made for the first election.

Boundaries
and extent
of the Town.

3.—The said Town of Whitby shall be comprised within the following limits or boundaries, that is to say: all that certain parcel of land known as lots numbers 24, 25, 26, 27, 28 and 29, in the broken front of the Township of Whitby, and lots numbers 23, 24, 25, 26, 27, 28, 29 and 30, and the north

halves of lots numbers 22 and 31 in the first concession of the said Township, and lots numbers 25, 26, 27 and 28, and the south halves of lots numbers 22, 23, 24, 29, 30 and 31 in the second concession of the Township of Whitby aforesaid.

4.—The said Town of Whitby shall be divided into three Wards in the following manner, that is to say : All that part of the Town south of the centre of the first concession aforesaid shall form the South Ward, and all that part of the Town south of Dundas Street to the centre of the first concession aforesaid shall form the centre Ward, and all that part North of Dundas Street in the second concession of the said Township of Whitby shall form the North Ward.

Division into three Wards.

8.—This Act shall be deemed a Public Act.

Public Act.

18 VIC.—CAP. 29.

An Act to declare valid a certain Survey of part of the Town of Cornwall.

[Assented to 18th December, 1854.]

Survey made by John Bruce in 1853 confirmed.

18 VIC.—CAP. 58.

An Act to enable Ministers of the Evangelical Lutheran Churches in this Province, to solemnize Matrimony and to keep Registers of Marriages, Baptisms and Burials.

[Assented to 18th December, 1854.]

WHEREAS the Pastors and divers Members of the Religious Society or denomination of Christians called "The Evangelical Lutheran Church" have, by their petition to the Legislature, prayed that they may be authorised to keep in due form of law, Registers of all Baptisms, Marriages and Burials, which shall by such Ministers or Pastors respectively be performed, and it is expedient to grant the prayer of the said petitioners :
Be it, &c. :—

Preamble.

1.—In Upper Canada, all the powers, privileges and advantages by the Act of the Legislature of the late Province of Upper Canada, passed in the eleventh year of the Reign of His Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted, and to provide for the future solemnization of Matrimony in this Province*, conferred upon or vested in any Clergyman or Minister of any of the several religious denominations mentioned in the third section of the said Act, shall be and the

Certain powers vested in Ministers of the said persuasion in Upper Canada.

Act of Upper Canada 11 Geo. IV. c.36.

same are hereby conferred upon and vested in any Clergyman, Minister or Pastor of the said religious denomination called "The Evangelical Lutheran Church," as fully and effectually to all intents and purposes, and upon the same conditions and restrictions, as if the Evangelical Lutheran Church aforesaid had been among the number of the religious denominations mentioned in the said third section, and subject to all the penalties imposed by the said Act for any contravention of the provisions thereof.

Certain powers vested in such Ministers in Lower Canada.

Conditions to be copied with.

Proviso :
Validity of
Registers.

Proviso.

2.—In Lower Canada, it shall and may be lawful for any regularly ordained Minister or Pastor for the time being of any Congregation of the said Evangelical Lutheran Church, to have and keep registers of Baptisms, Marriages and Burials, subject always to the penalties of law in this behalf provided, according to the laws of Lower Canada : and the said registers, the necessary formalities as by law already provided in Lower Canada aforesaid, in relation to registers of like nature, being observed, shall to all intents and purposes have the same effect in the law as if the same had been kept by any Minister or Clergyman in Lower Canada now authorized to keep registers, any law to the contrary notwithstanding ; but no such Minister or Pastor shall be entitled to the benefit hereby granted, unless he shall have taken the oath of allegiance before a Judge of the Superior Court in the *District* in which he shall reside, which oath the said Judge is authorized and required to administer, and the same to certify in duplicate under his signature, whereof one copy shall be filed in the Office of the Prothonotary of the said Court, the cost of which filing shall not exceed five shillings, and the other copy shall remain in the possession of the said Minister ; nor unless such Minister or Pastor shall, at the time of taking such oath, produce to the Judge the certificate of his ordination and of his call to become such Minister or Pastor by the said Congregation, or legally attested copies of such documents respectively ; *And provided also*, that the registers which have been so kept, and the several entries therein, according to the Laws of Lower Canada aforesaid, as well as authentic copies of such entries, shall to all intents and purposes, be good and available in law, as if the said registers had been kept pursuant to any Act, Statute or Law of or in Lower Canada previous hereto, in relation to registers of births, baptisms or deaths ; *Provided further*, that all and every the regulations and requirements of Acts, Statutes or Laws with respect to the registers therein mentioned, be also observed with respect to the registers to be kept pursuant to this Act.

3.—*Provided always*, That whenever the connection between any such Minister or Pastor and any Congregation shall cease, the duplicate of the registers kept by the said Minister or Pastor shall be the property of the said Congregation, and shall be deposited with the Trustees thereof, to be kept by the successor of such Minister or Pastor for the use of the said Congregation.

Provision when the Minister shall change his congregation.

4.—The said Ministers or Pastors shall, in all respects, comply with and be governed by the Acts, Statutes and Laws at present in force, in the keeping of the said registers, and shall, in case of disobedience to the requirements thereof, be liable to the penalties in like cases thereby imposed, which penalties shall be recoverable, paid, applied and accounted for, in the same manner as the penalties imposed by them are therein directed to be paid, applied and accounted for.

Laws touching Registers to be observed.

5.—This Act shall be deemed a Public Act.

Public Act.

18 VIC.—CAP. 69.

An Act making certain provisions rendered necessary by the separation of the Counties of Halton and Wentworth.

[Assented to 3rd April, 1855.]

5.—*And be it, &c.*, That for the purpose of preventing injustice to parties, that in any case where a person shall have been heretofore, or shall hereafter be admitted to the limits of any Union of Counties in the manner prescribed by law, and when such Union shall have been heretofore or shall hereafter be dissolved, or where any one or more Counties shall have been heretofore or shall hereafter be separated from such Union, after such admission, then and in every such case, the said person shall be held to retain the right to travel and reside in any portion of the said Counties as if no dissolution or separation had taken place, and the said person shall not be held by reason of such travel or residence, to have broken any Bond or condition thereof or to have forfeited any security given for the purpose of obtaining the benefit of such limits: *Provided always*, that in any case where proceedings in Law have been instituted before the passing of this Act against any person, or his or her sureties, by reason of such person having travelled from one County into another County of the said Union, or by reason of his or her having continued to reside in one County of the said Union after any such dissolution or separation, such legal proceedings may be continued and prosecuted until the payment by the defendant or defendants of

As to persons on bail to keep the limits of a Union of Counties, which shall be or shall have been dissolved.

They shall still have the limits of the two Counties.

See Municipal Act.

Proviso: pending proceedings against such persons may be continued until costs are paid by the Defendant.

the Plaintiffs' costs of suit, as between Attorney and client, and on such payment the said proceedings shall be discontinued.

18 VIC.—CAP. 82.

An Act to legalize certain grants from the Municipalities of this Province towards the Patriotic Fund.

[Assented to 19th May, 1855.]

Preamble.

WHEREAS doubts exist as to the right of Municipal Councils in this Province to make grants of moneys for other than strictly local purposes; And whereas, actuated by a spirit of commendable patriotism, several of the said Municipal Councils have contributed to the aid of the Fund commonly called "The Patriotic Fund," while others, apprehensive that such appropriation of their funds was illegal, have reluctantly refrained from gratifying so praiseworthy a disposition: And whereas it is expedient and right to remove all doubts respecting the power of the said Councils to make such grants for the purpose aforesaid: *Be it, &c.*

Grants for the Patriotic Fund declared valid.

1.—All grants of money heretofore made by any of the Municipal Councils of this Province in aid of the said Fund, shall be held to have been and the same are hereby declared to have been lawfully made.

Future grants to be valid if approved by a majority of the Municipal Electors.

2.—It shall and may be lawful for any of the Municipal Councils of this Province, in their discretion, and within the six months next after the passing of this Act, to make such appropriation by By-laws from their funds respectively, for the aid of the said Patriotic Fund, as they shall within their said respective Municipalities see fit: *Provided always*, that no such grant or appropriation shall be carried into effect until approved of by a majority of the ratepayers to be affected thereby, at a special meeting of such ratepayers, lawfully convened, in the manner provided for similar purposes by the Act passed in the sixteenth year of Her Majesty's reign, intituled, *An Act to establish a Consolidated Municipal Loan Fund for Upper Canada.*

16 Vic. c. 22.

18 VIC.—CAP. 83.

An Act to amend the Acts relating to Land Surveyors.

[Assented to 19th May, 1855.]

Preamble.

WHEREAS it is expedient to amend the Act passed in the twelfth year of Her Majesty's reign, and intituled, *An Act to*

12 Vic. c. 35.

repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the survey of Lands in this Province, and also the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's reign, intituled, An Act to amend the Act concerning Land Surveyors, in the manner hereinafter mentioned: Be it, &c.

14 & 15 Vic.
c. 4.

1.—The second and fortieth sections of the Act first cited in the preamble to this Act, and so much of the eighth section of the said Act as provides that so much of the sum therein required to be paid by each applicant receiving a Certificate, as shall remain after paying the expenses (if any) attending the examination of such applicant, shall be equally divided among those members of the proper Board of Examiners who shall have attended the examination, and shall not be salaried officers of the Government, shall be and is hereby repealed; and the remainder of any such sum, after paying the expenses (if any) attending the examination, shall be paid over to the Commissioner of Crown Lands, and accounted for by him in like manner with other moneys received by him; and it shall be lawful for the said Commissioner to pay to each member of such Board attending any examination and not being a salaried officer of the Government, the sum of one pound five shillings for each day's attendance, and to charge the same in his account as part of the expenses of his office.

Sections 2
and 40, and
part of Section 8 of 12
Vic. c. 35,
repealed.

How Examiners of Applicants for admission as Land Surveyors shall be paid.

2.—No person shall, after the passing of this Act, act as a Surveyor of lands within this Province, unless he shall be duly authorized to practise as a Land Surveyor according to the provisions of this Act, or shall have been so authorized before the passing thereof, according to the laws then in force.

None but licensed persons to act as Surveyors.

3.—Each apprentice to a licensed Surveyor shall pay a fee of ten shillings to the Secretary of the proper Board at the time of transmitting to him his indenture or articles, in conformity with the sixth section of the Act secondly cited in the preamble of this Act, nor shall such instrument be deemed to have been transmitted to the Secretary until such fee shall have been paid.

Fee on transmission of Articles to Secretary.

4.—From and after the passing of this Act, no person shall be admitted as an apprentice with any Provincial Land Surveyor, unless he shall have previously passed an examination before one of the Boards of Examiners, or before one of the members of the said Board, or before some Surveyor deputed by the said Board for the purpose, as to his knowledge of vulgar and decimal fractions, the extraction of the square and

Applicants to be examined before they can become apprentices to Surveyors.

cube root, of geometry, plane trigonometry, mensuration of superficies, and the use of logarithms, and shall have obtained a Certificate of such examination and of his proficiency, from the Board; and before he shall be so examined he shall pay into the Fee Fund the sum of ten dollars as the fee due by him on such examination, and a further sum of ten shillings to the Secretary for the said Certificate; and applicants for such examination previous to apprenticeship, shall give one month's notice to the Secretary of the proper Board, of their intention to present themselves for examination, and pay to such Secretary a fee of five shillings for receiving and entering such notice.

Fees on examination and certificate of qualification.

Applicants having served their apprenticeship before this Act, not to be rejected for mere informality, &c.

5.—No applicant for admission as a Land Surveyor claiming to have served previous to the passing of this Act, during the period prescribed by the third section of the Act first cited in the preamble to this Act, shall be rejected for mere informality in or technical objection to the "instrument in writing," under which he shall claim to have served, or to the date of the transmission or deposit thereof with the Secretary of the proper Board of Examiners, if he shall prove to the satisfaction of the Board of Examiners, that he has so served *bona fide*.

Allowance to Surveyors summoned as witnesses.

6.—Any Surveyor who shall be summoned to attend any Court, civil or criminal, for the purpose of giving evidence in his professional capacity as a Surveyor, shall be allowed for each day he shall so attend, the sum of twenty shillings (in addition to his travelling expenses, if any,) to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such Court.

Proceedings when a Surveyor shall require any information or document in the possession of a third party who will not voluntarily give or produce the same.

7.—When any Surveyor shall be in doubt as to the true boundary or limit of any Township, Seignior, Concession, Range, Lot or Tract of Land which he may be employed to survey, and shall have reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person shall not willingly appear before and be examined by such Surveyor, or shall not willingly produce to him such writing, plan or document, it shall be lawful for such Surveyor or the party employing him, to file in the office of the County Court, if the Survey be in Upper Canada, or of the Circuit Court, if the Survey be in Lower Canada, a *Præcipe* for a *Subpœna* or *Subpœna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn

declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a *Subpœna* to issue accordingly, commanding such person to appear before the Surveyor, at a time and place to be mentioned in the said *Subpœna*, and to bring with him any writing, plan or document mentioned or referred to therein; and such *Subpœna* shall be served on the person named therein, by delivering to him, or leaving for him with some grown person of his family at his residence, a copy thereof, and exhibiting to him or to such grown person, the original; and if the person commanded so to appear by such *Subpœna*, shall, after being paid his reasonable expenses, or having the same tendered to him, refuse or neglect to appear before the Surveyor at the time and place appointed in the *Subpœna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, such person so summoned shall be deemed guilty of a contempt of the Court out of which the *Subpœna* shall have issued, and an Attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of such Judge.

8.—Whenever the Municipal Corporation of any Township, City, Town or Incorporated Village in Upper Canada shall adopt a resolution on application of one half the resident Landholders to be affected thereby, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any Concession or Range or part of a Concession or Range in their Township, City, Town or Incorporated Village, it shall and may be lawful for such Municipal Corporation to make application to the Governor, in the same manner as is provided in the thirty-first section of the Act first cited in the preamble to this Act, praying him to cause a survey of such Concession or Range or part of a Concession or Range to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands; and the person or persons making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in the said Concession or Range, or part of a Concession or Range, and the limits of each lot so ascertained and marked shall be taken to be and are hereby declared to be the true limits thereof, any law or usage to the contrary notwithstanding; and the cost of the said survey shall be defrayed in the manner prescribed by the thirty-first section of the Act first cited in the preamble to this Act.

Municipal Councils may cause the boundaries of lots in any concession, &c., to be ascertained and marked under Sec. 31 of 12 Vic. c. 35.

See 22 Vic. c. 99, s. 258.

Expenses how paid.

Mode of
drawing
lines in dou-
ble fronted
concessions.

9.—*And whereas* some of the double front Concessions in the Townships in Upper Canada, are not of the full depth, and doubts have arisen as to the manner in which the division or side lines in such Concessions should be established: *Be it, &c.,* That in such Concessions the division or side lines shall be drawn from the posts at both ends thereof, to the centre of the Concession, as provided in the thirty-seventh section of the Act first cited in the preamble to this Act, without reference to the manner in which the lots or parts of lots in such Concession shall have been described for Patent.

Case where
the original
post or mon-
ument can-
not be found
provided for
in U. C.

10.—In all cases when any Land Surveyor shall be employed in Upper Canada to run any side line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall in every such case obtain the best evidence that the nature of the case will admit of, respecting such side line, post or limit; but if the same cannot be satisfactorily ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field notes thereof, of record in the office of the Commissioner of Crown Lands of this Province; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concession is situate, shall be obliterated or lost, then the Surveyor shall run a line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act and in the Act first cited in the preamble to this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be taken to be and are hereby declared to be, the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

18 VIC.—CAP. 119.

An Act to authorize the Sale or Lease of Lands in Upper Canada, held in trust for the use of Congregations or Religious Bodies.

[Assented to 19th May, 1855.]

Preamble.

WHEREAS grants of land have frequently been made by the Crown to Trustees, and lands have in many instances been

acquired by purchase and by donations from individuals for the use of various Congregations and Religious Bodies in Upper Canada, and such Congregations and Religious Bodies are unable to manage such lands advantageously from the want of power to bind the successors of any Trustees entering into agreements for leasing or otherwise disposing of such portions thereof as may not be immediately required for the use of the respective Congregations or Religious Bodies, and it is expedient to grant such power and authority: *Be it, &c.*

1.—That the Grantees named in any Letters Patent from the Crown or the Survivors or Survivor of them, or the Trustees for the time being appointed in manner prescribed in such Letters Patent, and the Trustees entitled by Law to hold any lands in trust for the use of any Congregation or Religious Body for the time being, shall from and after the passing of this Act, have full power and authority to demise or lease for any term not exceeding twenty-one years, any lands held by them in trust for the use and benefit of their respective Congregations or Religious Bodies or Societies, at such rent and upon such terms as they or a majority of them shall deem reasonable and just, and that such Trustees shall have authority to execute such leases as may be necessary for periods not exceeding twenty-one years, and to enter into any covenant or agreement therein, which shall bind their successors for the renewal of any such lease or leases at the expiration of any or every term of twenty-one years for a further period or term of twenty-one years or lesser period, at such rent and on such terms as may then by the Trustees for the time being be agreed upon with the Lessee, his heirs or assigns, or for the payment to the Lessee, his heirs or assigns, of the value of any buildings or other improvements which may at the expiration of any term be on the demised premises, and that the mode of ascertaining the amount of such rent or the value of such improvements may be stipulated and agreed upon and specified in such original lease or leases, and such stipulation or agreement shall be binding on the Trustees for the time being and may be enforced by any Court of Law or Equity having Jurisdiction in such cases.

Trustee may lease lands for 21 years, and make such leases renewable on terms to be fixed in a certain manner; or may bind their successors to pay for improvements, &c.

2.—*Provided always*, that in any case in which a majority of any such Grantees, or of the survivors, or the survivor, of them, or a majority of any such Trustees for the time being as aforesaid, may before the passing of this Act, have entered into an agreement or contract in writing, with any person for the leasing of any portion of such lands for any term of years, it shall and may be lawful for such Grantees, or the survivors or

Trustees or a majority of them may execute a lease under this Act for the unexpired portion of any term already

granted, although it exceed 21 years.

survivor of them, or the majority of such Trustees for the time being, to execute a lease or leases of the land, for the unexpired portion of the term, and with the conditions and stipulations mentioned in such agreement or contract, although such term or the unexpired portion thereof exceed twenty-one years; and the execution of such a lease may be enforced by the party having a right to claim the same, his heirs or assigns.

Trustees may sue or distrain for rent in arrear, and in what name.

3.—*And be it, &c.,* That the Trustees for the time being entitled by Law to hold lands in trust for any Congregation or Religious Body shall have power in their own names, or by any name or designation by which they may hold such lands, to sue or to distrain for any rent in arrear, and to take all such lawful ways and means for the recovery thereof as landlords in other cases are now by law entitled to take to enforce the payment of rents.

Land required for Church or Burial Ground may not be leased without consent of Congregation.

4.—*And be it, &c.,* That nothing herein contained shall be taken to confer on Trustees any power to lease or demise any lands without the consent of the Congregation or Religious Body for whose use they hold the same in trust, signified by the votes of a majority of the members present at a meeting thereof duly called for that purpose, nor any lands which at the time of making such lease may be necessary for the use of the Congregation for which the same may be held for the purpose of erecting a church or place of worship or other building thereon, or for a Burial Ground for such Congregation.

Land in trust may be sold when no longer required by the Congregation, and how.

5.—*And be it, &c.,* That when any piece or parcel of land held by Trustees for the use of any Congregation or Religious Body, shall have become unnecessary to be retained for such use by reason of other ground having been obtained or from any other cause, and it shall be deemed advantageous to sell such piece or parcel of land, it shall and may be lawful for the Trustees, for the time being, to give public notice of an intended sale, specifying the premises to be sold, and the time and terms of sale, and after publication of such notice in any weekly Paper published in or near the place where the lands are situated, for four successive weeks, to proceed to sell such lands at Public Auction according to the terms of such notice, but the Trustees shall not be obliged to complete or carry into effect such sale, if in their judgment an adequate price shall not have been offered for such lands; and that after such offer at public sale, the Trustees may proceed to sell such lands either by public or private sale: *Provided always*, that a less sum shall not be accepted at private sale than may have been previously offered at public sale: *Provided also*, that before

Public notice and auction.

Proviso.

Proviso.

any deed shall be executed in pursuance of any public or private sale, the congregation or religious body for whose use the lands have been held shall be duly notified thereof, and the sanction of the Court of Chancery shall be obtained for the execution of such Deed.

6.—*And be it, &c.,* That it shall be the duty of Trustees acting under the authority of this Act on the first Monday in July in each year, to have prepared and open for the inspection of the Congregation or Religious Body which they represent, or any member thereof, a full and detailed statement of all rents which may have accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of such Congregation or Religious Body, which may have in any manner been derived from the lands under their control or subject to their management, and also shewing the application of any portion of such moneys, in case any shall have been expended in behalf of their respective Congregations or Religious Bodies.

Trustees to prepare and shew statements annually.

7.—*And be it, &c.,* That the Court of Chancery may in a summary manner, on complaint on oath of any three members of a Congregation or Religious Body, of any misfeasance or misconduct by or on the part of any Trustees in the performance of duties authorized by this Act, call upon such Trustees to give in an account, and may enforce the rendering of such account, the discharge of any duties, and the payment of any moneys, so that such congregation or religious body may have the benefit thereof; and the said Court may compel such Trustees, in case of any misconduct, to pay the expense of such application, or may award costs to such Trustees in case such application shall be made on grounds which the Court shall consider insufficient or frivolous or vexatious.

Trustees may be called upon to account by Court of Chancery.

18 VIC.—CAP. 121.

An Act to provide means for the sale of lands held for the purpose of Public Educational Institutions in Upper Canada, when such lands cannot be conveniently used for such purposes.

[Assented to 19th May, 1855.]

WHEREAS it hath happened and may happen, that lands have been or may hereafter be surrendered, granted, devised or otherwise conveyed to the Crown, or to the Trustees of any District or County Grammar School, or to some other party, in trust for the purposes of or as a site for any such Grammar

Preamble.

School, or of any other Educational Institution established in some County or place, and for the benefit of the inhabitants thereof generally,—and that such lands may be found not to afford the most advantageous site for such School or Institution, or there may be no School or Institution bearing the precise designation mentioned in the deed of surrender, grant, devise or other conveyance, or that it may be for the benefit of such School or Institution that such lands be disposed of and others acquired in their stead for the same purpose, or the proceeds of the sale applied thereto : *And be it, &c.*

Lands held in trust for Educational purposes, and not conveniently situated for their purpose may be surrendered to the Crown, and sold, and the proceeds applied to the purchase of other lands.

1.—In any of the cases mentioned in the Preamble of this Act, it shall be lawful for the Trustees of any Grammar School or Institution or other party in whom any lands shall be vested in trust as therein mentioned, with the consent of the Municipal Council of the Municipality in which such School or Institution is or is to be established, to surrender and convey such lands to the Crown unconditionally; and any lands so surrendered, as well as any lands which have been or may hereafter be surrendered, granted, devised or otherwise conveyed to the Crown for any such purpose as aforesaid, may be sold by order of the Governor in Council, and the proceeds applied to the purchase of other lands to be vested in the Crown for the purposes of the same School or Institution, or in the case of there being no School bearing the precise designation intended as aforesaid by the party from whom the lands so sold came to the Crown, then for the purposes of the Grammar School or other Public Educational Institution established for the benefit of the Inhabitants of the Municipality generally, which shall, in the opinion of the Governor in Council, come nearest in its purposes and designs to that intended by such party as aforesaid; and if such proceeds are applied to the purchase of lands for Grammar School purposes, the title to such Lands may be vested in the Board of Trustees for any Grammar School, by their Corporate name: and if there be any surplus of such proceeds after such purchase, or if it be found that no lands are required as a site for or for other purposes of such School or Institution, then such surplus or proceeds (as the case may be) may be invested or applied for the purposes of such School or Institution in such manner as the Governor in Council shall deem most for the advantage thereof.

If there be a surplus or no other lands required.

Surrender &c., to the Crown need not be formally accepted

2.—It shall not be necessary that any such surrender, grant, devise or other conveyance to the Crown as aforesaid, be formally accepted by the Crown or by the Governor or other Officer or person for the Crown, but the same shall be valid, and shall vest the lands absolutely in the Crown, with-

out such acceptance ; and a certificate under the Hand of the Head of the Municipality and the corporate Seal thereof, that the Municipal Council hath, by a majority of its members present at any legal meeting thereof, consented to any surrender for which such consent is necessary under this Act, shall be sufficient evidence of such consent.

3.—No purchaser of land from the Crown under this Act shall be in any way bound to see to the application of the purchase money by him paid, to the purpose to which it is to be applied.

Purchaser
not bound to
see to trusts.

4.—Nothing in this Act shall be construed to impair the rights of any private party in or upon any lands, in so far as such rights would have existed and could be exercised without this Act.

Rights of private parties
not affected.

5.—It shall be lawful for the Crown to grant to the Trustees of any Grammar School or of any other Public Educational Institution established for the benefit of the Inhabitants of the Municipality generally, any lands which have been or may hereafter be surrendered, granted, devised or otherwise conveyed to the Crown as aforesaid.

Lands so
surrendered,
&c., may be
granted to
Trustees of
Grammar
Schools, &c.

6.—This Act shall apply only to Lands and Educational Institutions in Upper Canada.

Extent of
Act.

18 VIC.—CAP. 129.

An Act to remove doubts respecting certain Marriages in Upper Canada.

[Assented to 30th May, 1855.]

WHEREAS doubts have arisen respecting the legality of certain Marriages heretofore contracted and solemnized by certain Ministers in Upper Canada after the passing of the Act of the Parliament of Upper Canada, eleventh George the Fourth, chapter thirty-six, and before such Ministers had obtained Licenses, from the Quarter Sessions, as provided for by the said Act: *Be it, &c.*

Preamble.

Act of U. C.
11 Geo. IV. c.
36.

1.—The Marriage or Marriages of all persons, not being under any canonical disqualification to contract Matrimony, which had been publicly contracted in Upper Canada before any Minister or Ministers who were, before the passing of the above recited Act, allowed to solemnize Matrimony, and before such Ministers had obtained a License from the Quarter Sessions as above provided, are hereby declared to have been valid, and shall be considered as good and valid in Law : And the parties

Marriages by
Ministers
qualified but
then without
license
made valid.

Rights of parties and issue.

to such Marriages, and the issue thereof, shall be entitled to all the rights, and subject to all the obligations resulting from such Marriages and consanguinity ; any law, or usage or custom to the contrary in any wise notwithstanding.

18 VIC.—CAP. 135.

An Act further to amend the laws concerning Inspectors of Weights and Measures in Upper Canada.

[Assented to 30th May, 1855.]

Preamble.

WHEREAS it is necessary to amend the law concerning the appointment of Inspectors of Weights and Measures in Upper Canada : *Be it, &c. :*

County and City Municipalities in U. C. may appoint Inspector of Weights and Measures under 12 Vic. c. 85.

1.—From and after the passing of this Act, the Municipal Council of each County and City, in Upper Canada, shall have power to appoint, from time to time, one or more Inspectors of Weights and Measures for such Municipality, under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the several Laws therein mentioned, relative to the appointment and duties of Inspectors of Weights and Measures in Upper Canada ; Provided* that each Inspector holding office at the time of the passing of this Act, shall be and remain Inspector for the County and City in which he shall reside, until another be appointed by such Council.

Inconsistent enactments repealed.

2.—Any thing in the Act recited herein, or in any other law, inconsistent with the provisions of this Act, shall be and the same is hereby repealed.

18 VIC.—CAP. 137.

An Act to amend the Act relating to Line Fences and Water Courses in Upper Canada.

[Assented to 30th May, 1855.]

Preamble.

8 Vic. c. 20.

WHEREAS it is by the third section of the Act of the eighth Victoria, chapter twenty, provided that the party who shall neglect or refuse to make or repair an equal or just proportion of the division or line fence, shall pay therefor a sum not exceeding the sum of two shillings and six pence currency, per rod ; *And whereas* it is found from the scarcity of timber, and materials in many localities, that the said sum of two shillings and six pence per rod aforesaid, is not an adequate or fair remuneration to the party who shall make such fence : *Be it, &c. :*

1.—So much of the said third section of the above-recited Act, as limits the said sum to two shillings and six pence per rod, is hereby repealed, and the amount shall be determined in like manner as is provided by the said Act as to the parties who shall pay therefor, and the parties may be heard to ascertain the amount in like manner as they may be heard as to the proportion of fence to be made.

Value of fence to be determined in the same way as the proportion to be made by each party.

18 VIC.—CAP. 138.

An Act to repeal the Act of last Session, Chapter one hundred and eighty nine, and to regulate travelling on Public Highways in Upper Canada.

[Assented to 30th May, 1855.]

WHEREAS it is necessary to make better provisions than exist, to regulate travelling on the Highways in that part of this Province formerly Upper Canada: *Be it, &c.*

Preamble.

1.—The Act of the Parliament of this Province passed in the sixteenth year of Her Majesty's Reign, chaptered one hundred and eighty-nine, and intituled, *An Act to provide for the safety of Her Majesty's Subjects and others on the Highways in Upper Canada, and to regulate the Travelling thereon*, and all other Acts and parts of Acts now in force, inconsistent with the provisions of this Act, shall be and are hereby repealed.

Repeal of 16 Vic. c. 189, and other Acts inconsistent with this Act.

2.—All persons proceeding, going or travelling upon any highway in Upper Canada, in charge of any vehicle drawn by one or more horses, or other animal or animals, shall, when meeting any other vehicle drawn by one or more horse or horses, or other animal or animals, turn out to the right from the centre of the road, allowing to such vehicle so met one-half of the road; and if by reason of the extreme weight of the load on either of such vehicles the driver thereof shall find it impracticable so to turn out, he shall immediately stop, and if necessary for the safety of the other vehicle, and when required so to do, he shall assist the person or persons in charge thereof to pass without damage.

Carriages meeting to drive to the right, giving half the road.

3.—Every person proceeding, going or travelling on any highway as aforesaid, or on horseback, when overtaken by any vehicle or horseman travelling at greater speed, shall quietly turn out to the right, and allow the said vehicle or horseman to pass; and in the case of one vehicle being overtaken by another, if by reason of the extreme weight of the load on the vehicle so overtaken the driver thereof shall find

If the weight of one of them prevents this.

Carriage overtaken to turn to the right.

If the weight of one of them prevents this.

it impracticable so to turn out, he shall immediately stop, and if necessary for the safety of the other vehicle, and when required so to do, shall assist the person or persons in charge thereof to pass without damage.

Penalty on drivers, &c., too drunk to manage their horses.

4.—Every person in charge of any vehicle on any highway aforesaid, or of any horse or other animal used as the means of conveyance, who shall through drunkenness be unable to ride or drive the same with safety to Her Majesty's subjects and to others travelling the said highway, shall upon conviction thereof, be liable to the penalties imposed by this Act.

Racing, swearing, &c., on highway forbidden.

5.—All racing or furious driving upon any highway in Upper Canada, shall be unlawful, and the person or persons so racing or furiously driving, or shouting or using blasphemous or indecent language, shall, on conviction thereof, be liable to the penalties imposed by this Act.

Fast driving over bridges forbidden.

6.—Any person or persons riding or driving any vehicle, horse or other beast of burden, over any bridge above the length of thirty feet, at any pace faster than a walk, shall be liable to the penalties imposed by this Act; *Provided always*, that a notice of the regulation hereby imposed shall first be conspicuously placed on such bridge.

Proviso.

Sleigh horses to have bells.

7.—Every person travelling on any highway aforesaid, with any sleigh, sled or cariole, drawn by one or more horse or horses, or mule or mules, shall have at least two bells attached to the harness of such horse or horses, or mule or mules.

Penalty for contravening this Act, and how enforced.

8.—For any contravention of any of the preceding sections of this Act, duly proved upon the oath of any credible witness, before any Justice of the Peace having jurisdiction within the County where the offence shall have been committed, the offender shall incur a penalty of not less than five shillings nor more than five pounds, in the discretion of the said Justice, with costs, to be levied by distress and sale of the goods and chattels of the offender; and in default of payment and distress, the offender shall be imprisoned in the Common Gaol of the of the County, for a period of not less than one day, and not more than twenty days, at the discretion of the convicting Justice; *Provided always*, that the said fine and imprisonment shall be no bar to the recovery of damages by the injured party before any Court of competent jurisdiction.

Proviso: not to bar action of damages.

Application of penalties.

9.—All fines collected under this Act shall be paid to the Treasurer or Chamberlain or the Township, Village, Town or City where the offences for which they were imposed were

committed, to be applied to the general purposes of such Township, Village, Town or City.

10.—All convictions under this Act shall be subject to Appeal. appeal in the same manner as other summary convictions before Justices of the Peace.

11.—This Act shall apply only to Upper Canada.

Extent of
Act.

18 VIC.—CAP. 140.

An Act to remove doubts as to the true application of the Act to provide for the recovery of certain Rates and Taxes intended to be imposed by certain By-laws of the late District Councils or County Councils in Upper Canada.

[Assented to 30th May, 1855.]

WHEREAS the Act passed in the sixteenth year of Her Majesty's reign, intituled, *An Act to provide for the recovery of the Rates and Taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada*, was passed with the view of legalizing certain rates imposed by certain of the late District Councils of Upper Canada, under and by virtue of the Act passed in the fourth and fifth years of Her Majesty's reign, intituled, *An Act to provide for the better internal government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of local or Municipal authorities therein*, which said By-laws or some of them, were informal, and contained certain provisions not strictly in accordance with the said last mentioned Act, and of removing any doubt which might exist as to the legality of certain sales for arrears of taxes accruing under the said informal By-laws; *And whereas* certain provisions were made in and by the said first mentioned Act, and certain proceedings were required to be taken, for the purpose of remedying the difficulties which had arisen and might arise from the said informalities, and doubts have arisen whether the said provisions were applicable to any other than Counties the former District Councils representing which had passed informal By-laws, and it is expedient to remove the same: *Be it, &c.*

Preamble.

16 Vic. c. 183

4 & 5 Vic. c.
10.

1.—The failure to advertise lands in arrear for taxes, in the year one thousand eight hundred and fifty-three, as provided by the seventh section of the hereinbefore first recited Act, shall not invalidate the claim of such Counties for taxes which were then lawfully due.

Failure to
advertise,
&c., under
s. 7, not to
invalidate
claim of
Counties.

18 VIC.—CAP. 145.

An Act to confirm the City of Toronto in the possession of the Peninsula and Marsh now held by it under License.

[Assented to 19th May, 1855.]

Preamble.

WHEREAS the Mayor, Aldermen and Commonalty of the City of Toronto now hold, under a license of occupation from the Crown, bearing date the twelfth day of January, one thousand eight hundred and forty-seven, the Peninsula in front of the said City, and also the Marsh adjoining the said Peninsula to the eastward of the Bay in front of the said City, and being desirous to improve the said Peninsula, and to reclaim the said marsh, have expended large sums of money in surveying the same, and have laid out the said Peninsula in roads and streets, with a view of leasing the same to individuals, and have also entered into a correspondence with, and adopted a resolution to co-operate with the Harbor Commissioners, to carry out any measures that may be adopted for the benefit and improvement of the Harbor, by the construction of a canal across the said Peninsula, or by such other means as may be found necessary: *Be it, &c.*

Governor in Council may grant the said Peninsula, &c., to the Corporation.

Proviso: conditions may be inserted in the grant, and enforced.

1.—It shall and may be lawful for the government of this Province, by an Order in Council or otherwise, to grant to the said Mayor, Aldermen and Commonalty of the City of Toronto, the said Peninsula, and the marsh to the eastward of the said Bay (commonly known as Ashbridge's Bay), upon such terms and conditions as the Governor of this Province in Council may think fit: *Provided always*, that in any Order in Council, Letters Patent, or other Instrument granting to the said Corporation the said Peninsula, or marsh, or any part thereof, or any other lands now vested in the Crown, it shall be lawful to insert any conditions or restrictions as to the manner in which the same shall be used, or the purposes to which they shall be applied, or the buildings and works which shall or shall not be erected thereon, or any other conditions or restrictions whatever which the Governor shall think it for the public interest to cause to be inserted; and such conditions and restrictions shall have full force and effect, any rule or law as to the conditions or restrictions which may be inserted in grants and enforced at law to the contrary notwithstanding.

Public Act.

2.—This Act shall be deemed a Public Act.

18 VIC.—CAP. 146.

An Act to enable the Trustees of the Toronto General Burying Ground, to close the same, to sell a portion thereof and to acquire other ground for the purposes of the Trust.

[Assented to 19th May, 1855.]

Title sufficiently expressive of contents of Act.

18 VIC.—CAP. 147.

An Act to authorize the City of Hamilton to negotiate a loan of Fifty Thousand Pounds.

[Assented to 19th May, 1855.]

Title sufficiently expressive of contents of Act.

18 VIC.—CAP. 148.

An Act to Incorporate the Town of Paris, and to define the limits thereof.

[Assented to 19th May, 1855.]

3.—The Town of Paris shall consist of all that part of this Province situate in the County of Brant, and lying within the following limits, that is to say : commencing at the North-westerly angle of Lot number Twelve in the First Concession of the Township of Brantford ; thence, Southerly, along the limit between the said Lot and Lot number Eleven in the said Concession, for a distance equal to three quarters of the depth of the said Concession ; thence, Easterly, by a line drawn parallel to the line in front of the Concession to the Grand River, and across the same to the Easterly bank thereof ; thence, Northerly, along the water's edge of the said river, against the stream, to the Southern limit of the allowance for road between the Townships of Brantford and South Dumfries ; thence, Easterly, along the Southern limit of the said allowance for road, to a point ten chains Eastward of the limit between Lots number Twenty-eight and Twenty-nine in the First Concession of the Township of South Dumfries, produced ; thence, Northerly, parallel to the governing boundary of the Lots in the Gore of the said Township of South Dumfries to the limit between the said Gore and the First Concession of South Dumfries ; thence, Westerly, along the last mentioned limit to the limit between lots numbers Twenty-eight and Twenty-nine in the First Concession of the Township of South Dumfries ; thence, Northerly, along the limit between the last mentioned Lots to the centre line of the said

Description
of the Town
of Paris.

First Concession ; thence, Westerly, along the said centre line to the Easterly limit of the Galt road ; thence, Northerly, along the Easterly limit of the Galt road, six chains, sixty links, more or less, to an angle in the said road ; thence, Westerly, at right angles to the part of the Galt road before mentioned, to the rear line of Lots fronting on Jane street ; thence, North-westerly, along the rear line of the said Lots to the limits between Lots numbers Thirty and Thirty-one in the First Concession of the Township of South Dumfries ; thence, Northerly, along the limit between Lots numbers Thirty and Thirty-one aforesaid, to the allowance for road in the rear of the said First Concession ; thence, Westerly, along the Southerly limit of the last mentioned allowance for road to the Westerly limit of the grounds belonging to the Buffalo, Brantford and Goderich Railway Company ; thence, Southerly, along the Westerly limit of the said grounds as far as it continues on a straight line ; thence, South-easterly, in prolongation of the said straight line, to the Northerly bank of Smith's Creek ; thence, Southerly, following the Northerly bank of the said Creek, with the stream as it turns and winds to the centre line of the First Concession of the Township of South Dumfries ; thence, Westerly, across the said Creek and along the said centre line of the First Concession to the Westerly limit of the South-easterly quarter of Lot number Thirty-one in the First Concession of the Township of South Dumfries ; thence, Southerly, along the Westerly limit of the South-westerly quarter of Lot number Thirty-one aforesaid and prolongation thereof, to the Southerly limit of the allowance for road between the Townships of South Dumfries and Brantford ; thence, Easterly, along the Southerly limit of the last mentioned road allowance to the place of beginning.

Division
into Wards.

South.

Queen's.

King's.

North.

4.—The said Town of Paris shall be divided into four Wards, to be called, respectively : the South Ward, Queen's Ward, King's Ward and North Ward. The said South Ward to comprise all that part of the said Town which lies South of Dundas Street ; Queen's Ward to comprise all that part of the said Town North of Dundas Street, following Grand River and the South and West side of Smith's Creek to the Town boundary ; King's Ward, to comprise all that part of the said Town which lies on the South side of Charlotte Street to Smith's Creek, including the East side of Grand River and East side of River street North to the Railway, following it to the Grand River ; North Ward to comprise all that part of the said Town which lies North of the South line of Charlotte street to the Town limits.

18 VIC.—CAP. 149.

An Act to authorize the Municipal Council of the County of Welland to raise means to liquidate certain debts and claims against the said County, and for other purposes.

[Assented to 19th May, 1855.]

Title sufficiently expressive of contents of Act.

18 VIC.—CAP. 150.

An Act to amend the Act authorizing the Town of Dundas to become security to a certain amount, for the Desjardins Canal Company, to the Great Western Railway Company.

[Assented to 19th May, 1855.]

Debentures issued under By-law No. 72, authorized to be cancelled and new Debentures issued.

18 VIC.—CAP. 151.

An Act to declare the Act confirming a Survey of the Township of Ameliasburgh, to extend to the Township of Hillier, which at the time of the said Survey formed part of Ameliasburgh.

[Assented to 19th May, 1855.]

13 & 14 Vic. cap. 88, declared to apply to Township of Hillier.

18 VIC.—CAP. 152.

An Act to determine the manner in which the division or side lines of the Lots in the Township of Wolfe Island shall be drawn.

[Assented to 19th May, 1855.]

All side lines of Lots to be drawn from posts at one front of the Concession to the posts bearing same numbers at the other front thereof.

18 VIC.—CAP. 153.

An Act to determine the course of the division or side lines of the Lots in certain Concessions in the Township of Smith.

[Assented to 19th May, 1855.]

How side]lines, except in cases 1, 2 and 3, and on Centre road, governed.

18 VIC.—CAP. 154.

An Act to repeal the Act confirming a certain allowance for Road in the Township of Monaghan.

16 Vic. cap. 228, repealed.

18 VIC.—CAP. 155.

An Act to confirm the present boundaries of certain Lots in the Township of Winchester.

[Assented to 19th May, 1855.]

Survey of Lewis Grant set aside.

18 VIC.—CAP. 156.

An Act to confirm and establish a certain portion of the original Survey of the Township of Niagara.

[Assented to 19th May, 1855.]

Stone boundaries to be placed, &c.

18 VIC.—CAP. 171.

An Act to divide the Township of Norwich into two separate Municipalities.

[Assented to 30th May, 1855.]

Townships
of North
Norwich and
South Nor-
wich consti-
tuted from
1st January,
1856, out of
the present
Townships.

1.—Upon and after the first day of January next after the passing of this Act, the first, second, third, fourth, fifth and sixth concessions of the said Township of Norwich, and so much of the Gore thereof as adjoins the said concessions, shall for all Municipal and Electoral purposes, form a separate Township to be called North Norwich; and the seventh, eighth, ninth, tenth, eleventh and twelfth concessions of the said Township of Norwich, together with so much of the said Gore as adjoins the said concessions, shall for the like purposes form a separate Township to be called South Norwich: the front line of the seventh concession and its prolongation across the said Gore shall form the boundary line between the said Townships.

18 VIC.—CAP. 173.

An Act to revive, continue and amend certain provisions of the Act for establishing the boundary of Lots in the West Gore of the Township of Beverly.

[Assented to 30th May, 1855.]

Commissioners to be appointed, powers, duties, &c.

19 & 20 VIC.—CAP. 16.

An Act to amend the Provincial Act appropriating the moneys arising from the Clergy Reserves.

[Assented to 16th May, 1856.]

WHEREAS it is expedient to amend the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to make better provision for the appropriation the moneys arising from the lands heretofore known as the Clergy Reserves, by rendering them available for Municipal purposes: Therefore, &c.*

Preamble.

18 Vic. c. 2.

1.—The amount of "The Upper Canada Municipalities Fund," remaining unexpended and unappropriated under the provisions of the first, second, third and fourth sections of the said Act, on the thirty-first day of December, in the year one thousand eight hundred and fifty-five, and on the same day in each year after the passing of this Act shall, by the Receiver General, be apportioned equally among the several City, Town, Incorporated Village and Township Municipalities in Upper Canada, in proportion to the number of Rate-payers that shall appear on the Assessment Rolls of such Municipalities for the year next before the time of such apportionment.

How the unappropriated balance of the U. C. Municipalities' Fund shall be appropriated yearly.

2.—It shall be the duty of the Clerks of the several Cities, Towns, Incorporated Villages and Townships in Upper Canada, on or before the first day of July next after the passing of this Act, to transmit to the Receiver General, a true Return of the number of Rate-payers appearing on the said several Assessment Rolls for the year one thousand eight hundred and fifty-five, and on or before the first day of December in each year thereafter to transmit to the Receiver General a similar Return for the year in which such Return shall be made, and to make an affidavit, to be written on each of the said Returns and sworn before a Justice of the Peace, of the correctness of such Return.

Clerks of Municipalities in U. C. to make certain returns yearly to the Receiver General.

3.—Any Clerk of any of the said Municipalities who shall fail to make any Return required by the next preceding section of this Act, by the time therein limited, shall be liable for each failure to a penalty of twenty-five pounds to be paid to the Receiver General for the use of the Province, which penalty may be sued for and recovered by the Crown in any Court of competent jurisdiction.

Penalty on Clerks not making such return.

4.—In case it should at any time appear that by reason of an erroneous return too much money has been paid to a Muni-

Recovery of money overpaid under

erroneous
returns.

cipality, the excess shall be a debt due and recoverable by the Crown from such Municipality.

Repeal of
inconsistent
provisions.

5.—So much of the fifth section of the before mentioned Act as is inconsistent with this Act, shall be and the same is hereby repealed.

19 & 20 VIC.—CAP. 17.

An Act to incorporate the Town of Galt and to define the limits thereof.

[Assented to 16th May, 1856.]

Upper Can-
ada Muni-
cipal Corpora-
tions Acts to
apply to it.

2.—So much of the Upper Canada Municipal Corporations Acts as relates to incorporated towns, shall upon, from and after the day last aforesaid, apply to the said Town of Galt, which shall have and exercise all and singular the same rights powers, privileges and jurisdiction as are given, granted or conferred upon, or as shall, by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns; and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of Galt, as fully as if the said tract of land had become a Town under the ordinary operation of the said Upper Canada Municipal Corporations Acts with the exception hereinafter made as regards the first election.

Boundaries
of the Town
of Galt.

3.—The Town of Galt shall consist of that part of this Province situate within the County of Waterloo, in Upper Canada, and lying within the following limits, that is to say: "Commencing on the western limit of lot number seven, in the centre of the tenth concession of the Township of Dumfries, in the said County of Waterloo; thence on the said limit to the allowance for highway between the tenth and eleventh concessions; thence along the said allowance to its junction with the macadamized road leading from Galt to Dundas; thence on the same course as the side lines of the concession to the Dundas and Waterloo Turnpike Road; thence along the said turnpike road, crossing the allowance for highway between the eleventh and twelfth concessions, to the junction of the said Turnpike Road with the common road leading from Galt to Preston; thence parallel to the allowance for highway between the eleventh and twelfth concessions, crossing the Grand River, to the side line between lots numbers eleven and twelve in the eleventh concession, produced into the twelfth concession; thence along the said side line, crossing the allowance

for highway between the eleventh and twelfth concessions, and between lots numbers eleven and twelve in the eleventh concession crossing the allowance for highway between the tenth and eleventh concessions, and between lots numbers eleven and twelve in the tenth concession, to the centre of the said tenth concession; thence through the centre of the said tenth concession, crossing the Grand River to the place of beginning."

4.—The said town of Galt shall be divided into five Wards, to be called respectively the First Ward, Second Ward, Third Ward, Fourth Ward, and Fifth Ward. To be divided into five Wards.

19 & 20 VIC.—CAP. 18.

An Act to incorporate the Town of Owen Sound, in the County of Grey

[Assented to 16th May 1856]

1.—The tract of land lying within the boundaries hereinafter mentioned, shall, upon, from, and after the first day of January, in the year one thousand eight hundred and fifty-seven, be incorporated as, and shall be a Town, to be called and designated as the Town of Owen Sound. Town of Owen Sound incorporated

3.—The said Town of Owen Sound shall consist of all that part of the County of Grey which is bounded as follows, that is to say: on the East by the tenth Concession of the Township Sydenham, on the West by the third Concession of the Township of Derby, on the South by the lots number fourteen in the eleventh and twelfth Concessions of the Township of Sydenham and by lots number fourteen in the first and second Concessions of the Township of Derby, and on the North by Owen Sound and the Indian Lands as they are now limited and bounded. Boundaries of the said Town.

4.—The said Town of Owen Sound shall be divided into three Wards, to be called respectively: Bay Ward, Centre Ward, and River Ward; Bay Ward shall consist of all that part of the Town north of the centre line of Division Street prolonged each way to the East and West boundaries of the Town; Centre Ward shall consist of all that part of the Town lying between Bay Ward as above defined and the centre line of Union Street prolonged each way to the East and West boundaries of the Town; and River Ward shall consist of all that part of the said Town lying South of the centre line of Union Street prolonged as aforesaid. Town divided into three Wards described.

19 & 20 VIC.—CAP. 35.

An Act to vest a certain allowance for Road in the Township of Hamilton, County of Northumberland, in John Wade and Benjamin Seymour.

[Assented to 16th May, 1856.]

Private Act.

19 & 20 VIC.—CAP. 36.

An Act to vest in Samuel Doolittle and Robert Johnson, a certain allowance for Road in the Township of Haldimand.

[Assented to 16th May, 1856.]

Private Act.

19 & 20 VIC.—CAP. 37.

An Act to vest in James Taunton, a certain allowance for Road in the Township of Southwold.

[Assented to 16th May, 1856.]

Private Act.

19 & 20 VIC.—CAP. 38.

An Act to vest in John Farley the younger, a certain allowance for Road, in the Township of Darlington.

[Assented to 16th May, 1856.]

Private Act.

19 & 20 VIC.—CAP. 39.

An Act to vest in Daniel Burritt a certain allowance for Road in the Township of Marlborough.

[Assented to 16th May. 1856.]

Private Act.

19 & 20 VIC.—CAP. 49.

An Act for the Suppression of Lotteries.

[Assented to 19th June, 1856.]

Preamble.

WHEREAS it is desirable that the practice of selling lands, goods and chattels by lot or chance be prohibited by law, and any such sales declared void: *Therefore, &c.*

Penalty for making or publishing Lottery schemes of any kind.

1.—If any person shall after the passing of this Act, make, print, advertise or publish, or cause or procure to be made, printed, advertised or published, any proposal, scheme, or

plan, for advancing, lending, giving, selling, or in any way disposing of any property, either real or personal, by lots, cards, tickets, or any mode of chance whatever, or shall sell, barter, exchange, or otherwise dispose of, or cause or procure, or aid or assist, the sale, barter, exchange, or other disposal of, or offer for sale, barter or exchange, any lot, card, ticket, or other means or device, for advancing, lending, giving, selling, or otherwise disposing of any property, real or personal, by lots, tickets, or any mode of chance whatever, such person shall, upon conviction thereof, before any Mayor, Alderman, or other Justice of the Peace, upon the oath of any one or more credible witnesses, or upon confession thereof, forfeit and lose the sum of Five Pounds for each and every such offence, together with costs, to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of any such Mayor, Alderman, or other Justice of the Peace, of the city, town, county or place where such offence shall be committed, which said forfeiture shall be applied half to the informer, and the other half shall be paid to the Treasurer or Chamberlain of the Municipality in which such offence shall be committed, and shall form part of the funds thereof.

How enforced and applied.

2.—Any person buying, bartering, exchanging, taking or receiving any such lot, card, ticket or other device as in the first section of this Act mentioned, shall, upon conviction thereof, in like manner as therein mentioned, forfeit and lose the sum of Five Pounds, for each offence, to be recovered and applied as aforesaid.

Penalty for buying or receiving Lottery tickets, &c.

3.—Any sale, loan, gift, barter or exchange of any real or personal property, by any lottery, ticket, card, or other mode of chance whatever, depending upon, or to be determined by chance or lot, shall be void to all intents and purposes whatsoever, and all such real or personal property so sold, lent given, bartered or exchanged, shall be forfeited to such person as shall sue for the same by action, bill or information in any Court of Record in this Province: *Provided always* that no such forfeiture shall affect any right or title to such real or personal property acquired by any *bona fide* purchaser for valuable consideration without notice.

Sales, gifts, &c., founded on Lotteries to be void.

Proviso as to purchasers without notice.

4.—If any person so convicted by any Mayor, Aldermen, or other Justice as aforesaid, shall not have sufficient goods and chattels whereon to levy the penalties authorized by this Act, or shall not immediately pay the said penalties, or give security for the same, such Mayor, Alderman, or other Justice, convicting such person, shall commit such person to the common Gaol of the County or *District* in which such offence was

Committal for non-payment of penalties.

committed, for a period not exceeding three calendar months, or until such fine and costs are paid.

Act to extend to publication of foreign Lottery schemes.

5.—The provisions of this Act shall extend to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and to the sale, or offer for sale, of any ticket, chance, or share, in any such lottery, or to the advertisement for sale of such ticket, chance, or share.

Interpretation clause.

6.—The term “personal property” in this Act shall include every description of money, chattel and valuable security, and every kind of personal property whatever; and the term “real property” shall include every description of land, and all estates and interests therein.

Appeal from conviction under this Act.

7.—Any person convicted under this Act, shall have the same right of appeal from the judgment of the convicting Justice, as in other cases of summary convictions, where an appeal is allowed by law.

Act not to extend to bona fide division of property held in common.

8.—Nothing in this Act contained shall prevent joint tenants, or tenants in common, or persons having joint interests, *droits indivis*, in any real or personal property, from dividing such property by lot or chance in the same manner as if this Act had not been passed.

Act to commence 1st January, 1857.

9.—This Act shall commence and take effect on the first day of January next.

19 & 20 VIC.—CAP. 60.

An Act to enable the Municipal Council of the Town of Cornwall to appropriate the surplus of certain moneys raised for making a Macadamized Road.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 61.

An Act to authorize the Municipal Council of the Town of Chatham to dispose of the Land now set apart for a Cemetery in the said Town.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 62.

An Act to vest a certain Road allowance in the Township of Stamford, in the Township Council.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 63.

An Act to incorporate the Town of Clifton.

[Assented to 19th June, 1856.]

1.—From and after the passing of this Act the inhabitants of the said Town of Clifton shall be a body corporate apart from the Township of Stamford, in which such Town is situate, and as such shall have perpetual succession and a common seal, with such powers as are now by law conferred upon Incorporated Towns in Upper Canada, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Town of Clifton.

Town of
Clifton in-
corporated.General
powers.

2.—The said Town of Clifton shall be comprised within the following limits or boundaries, that is to say : commencing at the centre of the Niagara River, at a point where the north side-line of Lot number seventy-five of the Township of Stamford would strike, if produced :—Thence west, along the said north side-line of Lot number seventy-five to the north-east angle of Lot number seventy-six ;—Thence south, along the east side of Lot number seventy-six to the south-east corner thereof ;—Thence west, along the south side of the said Lot to the north-east angle of Lot number ninety ;—Thence south, along the east side of Lots numbers ninety, ninety-five, one hundred and eight and one hundred and thirteen to the south-east angle of the said Lot number one hundred and thirteen ;—Thence east, between Lots numbers one hundred and twenty-seven and one hundred and twelve to a point where the west line of a property subdivided by the late Ogden Creighton, Esquire, would strike, if produced ;—Thence south along the said property line through Lot number one hundred and twenty-seven and part of Lot number one hundred and twenty-nine to the northerly side of Magdalene Street ;—Thence south, forty-five degrees east, along the northerly side of Magdalene Street and crossing Clifton Street to the land of the Erie and Ontario Railroad ;—Thence Southerly, along the westerly side of the said Railroad Company's land along Clifton Street and through the lands of the " City of the Fall's Company " to the division line between blocks numbers nine and ten of the said Company's land ;—Thence east, crossing the Railroad land and between the said blocks numbers nine and ten to the centre of the Niagara River ;—Thence down the centre of the said River northerly, the several courses thereof, to the place of beginning.

Boundaries
of the Town.

Governor
may divide
the town
into Wards.

11.—Whenever it may appear desirable to the Governor in Council, it shall and may be lawful for the Governor of this Province, by an order in Council, to issue a Proclamation, under the great Seal of this Province, dividing the said Town into Wards, setting forth the boundaries of the same, and to make a division of the said Town into Wards in such way or manner as may be deemed advisable; any law to the contrary thereof in any wise notwithstanding.

19 & 20 VIC.—CAP. 64.

An Act for the construction of Water Works in the City of Hamilton.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 65.

An Act to enable the Church Wardens of St. George's Church, in the Town of St. Catharines, to sell and convey four acres of land originally purchased "as a site for a Parsonage," and for other purposes.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 66.

An Act to provide for the separation of the County of Peel from the County of York.

[Assented to 19 June, 1856.]

Preamble.

WHEREAS a very large number of inhabitants of the County of Peel, the junior County of the United Counties of York and Peel, have by their Petitions prayed that the said County of Peel may be set apart as a separate County for judicial and other purposes without unnecessary delay, and the wealth and population thereof being sufficient to warrant the same, it is expedient to make provision to enable the said County to separate from the said County of York as soon as the necessary provisions for that purpose shall have been made: *Therefore, &c.*

Provisional
Council con-
stituted for
Peel.

1.—The Town Reeves and Deputy Town Reeves of the several Townships, Villages and Towns in the County of Peel, as the same is described and limited in and by the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's reign and intituled, *An Act to make certain altera-*

14 & 15 Vic.
c. 5.

tions in the Territorial Divisions of Upper Canada, shall form a Provisional Municipal Council for the said County, and shall, with respect to the said County, have, possess and exercise all and singular the rights, powers, privileges and duties conferred, granted or imposed by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act for abolishing the Territorial Divisions of Upper Canada into Districts, and for providing for temporary Unions of Counties for judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require*, upon Provisional Municipal Councils erected by Proclamation under the authority of the said Act, and also all the powers which may be conferred on Provisional Municipal Councils generally by any other Act or Law in force in Upper Canada; subject to the provisions in the following sections contained.

Its general powers.

12 Vic. c. 78.

Subject to provisions hereinafter made.

2.—It shall be the duty of the Warden of the United Counties of York and Peel, to call a meeting of the Reeves and Deputy Reeves of the County of Peel, at such place and hour as he shall appoint, on some day in the month of October, one thousand eight hundred and fifty-six: A notice of such meeting shall be inserted in at least one of the Newspapers published within the said County of Peel, and a copy of such notice sent by mail or otherwise to each member of such Council, at least eight days before the day appointed for such meeting, by the Warden for the said United Counties of York and Peel: And the said Provisional Council at the first meeting thereof to be held under this Act, shall first proceed to elect a Provisional Warden, after which, at the same meeting, or some adjournment thereof, they shall proceed to pass a By-law for the purpose of taking a vote of the qualified Municipal Electors of the said County, on the question of separation, by a vote to be specially taken, for that purpose, each qualified Elector, having one vote and voting "Yea" or "Nay" after at least ten days' notice shall have been given in the manner to be provided by such By-law, of the time and place where the votes will be taken in the Wards of the several Municipalities forming the said County.

Warden of York and Peel to call a meeting of Reeves, &c., of Peel, and in what manner.

Provisional Warden to be elected.

To pass By-law for a special vote for or against separation.

3.—The Provisional Council shall meet, on the requisition of the Provisional Warden, on some day after the day or days appointed for taking such vote, and proceed in open Council to ascertain the number of votes recorded "Yea" and "Nay" and if the result shall show that a majority of the votes recorded are "Nay," then after making a record of the same in the minutes of the said Provisional Council, the said Council shall be dissolved.

If the majority of votes be against it, Provisional Council dissolved.

If the majority of votes be for it, powers of the Provisional Council.

4.—If a majority of the votes recorded as aforesaid be “Yea,” then the said Provisional Council shall, at some meeting to be held after the first day of February next, proceed to select a place for the County Town of the said County, and the place so selected shall be the County Town of Peel; and the said Provisional Council shall have and exercise the powers conferred on Provisional Municipal Councils by law, and shall and may purchase the necessary property at the place selected by the said Council assembled as aforesaid, and proceed to erect the necessary public buildings on such property; and all the provisions of the Act last above cited shall apply to the said Provisional Municipal Council, and to the said County of Peel.

Appointment of Officers.

5.—The said Provisional Council shall have power and authority to appoint, by By-law or otherwise, such and so many officers and persons as may be necessary to carry out the provisions of this Act; and the Provisional Warden or any Member of the Council shall administer to each person so appointed, the oath of office prescribed by law to be taken by any officer appointed under this Act, before he or they shall commence the discharge of the duties imposed on him or them; and each person so appointed and sworn shall be subject to all the responsibilities imposed on Municipal Officers by law.

Oaths of office.

Penalty for interrupting proceedings under this Act.

6.—Any person or persons who shall wilfully interrupt or interfere with any of the proceedings authorised by this Act, shall be dealt with and punished as provided by the Upper Canada Municipal Corporation Acts, with respect to persons interfering with the proceedings under the said last mentioned Acts.

Proclamation to issue dissolving the Union when the court house and gaol are completed.

7.—So soon as the Court House and Gaol of the said County shall be erected and completed at such County Town, according to the provisions of the fifteenth section of the said lastly in part recited Act, and the other provisions of the said fifteenth section shall have been complied with by the said County, it shall and may be lawful for the Governor of this Province to appoint the necessary officers as provided by the seventeenth section of the said in part recited Act, and by order in Council to issue a Proclamation dissolving the Union between the said County of Peel and the said County of York, from the date to be mentioned in such Proclamation; and all the provisions of the said lastly in part recited Act, or of any other Act or Law of Upper Canada applicable to Counties on and after their being separated from other Counties, shall apply to the said Counties of York and Peel respectively.

8.—The said Warden of the United Counties of York and Peel shall by a warrant under his hand and seal, appoint some one of the Town Reeves or Deputy Town Reeves of the said County of Peel, to preside at the first meeting of the Provisional Municipal Council thereof, until a Provisional Warden shall be elected by such Provisional Municipal Council.

Appoint-
ment of a
person to
preside until
a Provisional
Warden is
elected.

9.—This Act shall be deemed and taken to be a Public Act. Public Act.

19 & 20 VIC.—CAP. 67.

An Act to authorize a Survey of the Broken Front Concession of the Township of Darlington, and for other purposes.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 68.

An Act to Incorporate the Town of Sarnia in the County of Lambton.

[Assented to 19th June, 1856.]

1.—The Town plot or tract of land now known as the Town of Port Sarnia, and lying within the boundaries mentioned in the Schedule A to this Act, shall, upon, from and after the first day of January, in the year one thousand eight hundred and fifty-seven, be called and known as the Town of Sarnia, and shall be incorporated with the rights, powers and privileges of an incorporated Town.

Town of
Sarnia incor-
porated.

3.—The said Town of Sarnia shall be divided into three Wards, in the manner described in the Schedule B. to this Act.

Division int
Wards.

SCHEDULE A.

BOUNDARIES OF THE TOWN OF SARNIA.

The said Town shall be bounded on the North by the Southern limit of the Seventh Concession of the Township of Sarnia, prolonged westward to the Province boundary line in the River St. Clair,—on the East by the rear boundary line of the Front or Ninth Concession of the said Township, continued southward through Park Lots numbered twenty, to the northern limit of the Indian Reserve,—on the South by the said Northern limit of the said Indian Reserve, continued westward to the Province boundary line in the River St. Clair, and on the West by the Province boundary line in the said River.

SCHEDULE B.

BOUNDARIES OF THE WARDS OF THE TOWN OF SAENIA.

North Ward shall comprise all that part of the said Town North of the centre line of George Street, from the eastern to the western boundary of the said Town.

Middle Ward shall comprise all that part of the said Town, South of North Ward, and North of the centre line of Cromwell Street, from the eastern to the western boundary of the said Town.

South Ward shall comprise all that part of the said Town, South of Middle Ward.

19 & 20 VIC.—CAP. 80.

An Act to vest certain Road allowances in the Township of Brantford, in George S. Wilkes.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 81.

An Act to vest a certain allowance for Road, in the Township of South Dumfries, in the County of Brant, in Horace Capron and Myron Ames.

[Assented to 19th June, 1856.]

Private Act.

19 & 20 VIC.—CAP. 94.

An Act to alter and amend the Game Laws of Upper Canada.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS it is expedient to amend the law for the preservation of Game and Wild Fowl in Upper Canada: *Therefore, &c.*

Time for
killing Deer.

1.—No Deer, Moose, Elk, Reindeer or Cariboo, shall be hunted, taken or killed, between the first of February and the first of August in any year.

Turkey,
Grouse, &c.

2.—No wild Turkey, Grouse, Partridge or Pheasant, shall be hunted, taken or killed, between the first of March and the first of September in any year.

Quail.

3.—No Quail shall be hunted, taken or killed, between the first of March and the first of October in any year.

4.—No Woodcock shall be hunted, taken or killed, between the first of March and the first of July in any year. Woodcock.

5.—No wild Swan, Goose, or Duck of the kinds known as the Mallard, Grey Duck, Black Duck, Wood Duck, or any of the kinds of Duck known as Teal, shall be hunted, taken or killed, between the fifteenth of April and the first of August in any year. Water Fowl.

6.—No wild Turkey, Grouse, Partridge or Pheasant, Quail or Woodcock, shall be trapped or taken by means of traps, nets, springs or other means of taking such birds other than by shooting, at any time whatever; nor shall any trap, net or snare be made, erected or set, either wholly or in part for the purpose of such trapping or taking. Certain Birds to be killed only with the gun.

7.—No person shall have in possession any of the animals or birds hereinbefore mentioned, within the periods above prohibited, without lawful excuse, the proof whereof to be on the party charged. Penalty for having game at unlawful times.

8.—Any offence against any provision of this Act shall be punished, on conviction before a Justice of Peace, by a fine not exceeding five pounds nor less than five shillings in the discretion of such Justice, with costs, or in default of payment, by imprisonment for a term not exceeding one month; one half of such fine to go to the Municipality, and half to the Informer. Prosecution and recovery of penalties. Application.

9.—The following Acts, that is to say, the Act passed in the seventh year of Her Majesty's Reign, and chaptered twelve,—the Act passed in the eighth year of Her Majesty's Reign, and chaptered forty-six,—the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and chaptered sixty-one,—and the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered one hundred and seventy-one,—and all Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed. Repeal of—
7 Vic. c. 12.
8 Vic. c. 46.
14 & 15 Vic. c. 61.
16 Vic. c. 171, &c.

10.—This Act shall not apply to Indians. Exemption.

11.—This Act shall apply only to Upper Canada. Applies to] U. C.

19 & 20 VIC.—CAP. 95.

An Act to provide for the separation of the County of Victoria from the County Peterborough, and to fix the County Town at Lindsay.

[Assented to 1st July, 1856.]

WHEREAS a great number of the Inhabitants of the several Townships and places in the County of Victoria have by their Preamble.

Petition, prayed that the said County of Victoria, now united to the County of Peterborough, may be set apart as a separate County for Judicial and other purposes, without unnecessary delay; and the wealth and population thereof being sufficient to warrant the same, it is expedient to make provision to enable the said County to separate from the said County of Peterborough, as soon as the necessary provisions for that purpose shall have been made: *Therefore, &c.*

Council of Peterborough and Victoria on receiving petitions to that effect, may cause a vote of the rate-payers of Victoria to be taken on the question of a dissolution.

1.—It shall be lawful for the County Council of the United Counties of Peterborough and Victoria, whenever they shall receive petitions from a majority of the Township Councils in the said County of Victoria, in favor of a dissolution of the said Union, to appoint some convenient day in the month of January of any succeeding year, for the purpose of taking a vote of the rate-payers of the said several Townships composing the said County of Victoria, upon the question of such dissolution, which said vote shall be taken at the same places, in the same manner, and by the same officers, as votes are taken for the election of Councillors, and shall be recorded in books prepared for that purpose, each voter in favor of such dissolution voting "Yea," and each voter against such dissolution voting "Nay;" at least ten days' notice of the time appointed for taking the said vote being previously given in at least ten public places in each Municipality,

Returning Officer to return poll-books to Clerk of County Council, who shall declare the result.

Provisional Council formed if the majority of votes be yea.

14 & 15 Vic. c. 5.

Its powers to be as under—

12 Vic. c. 78, &c.

2.—The Returning officers to take such votes for the respective Townships shall, within ten days thereafter, return their Poll Books verified under oath, to the Clerk of the County Council, who shall publish and declare the result of the same for the information of all concerned; and if it shall appear that a majority of all the rate-payers voting at the said polling, have recorded their votes in favour of the said dissolution, then the Town Reeves and Deputy Town Reeves of the several Townships in the said County of Victoria, as the same is described and limited in and by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to make certain alterations in the Territorial Divisions of Upper Canada*, shall form a Provisional Municipal Council for the said County, and shall with respect to the said County, have, possess and exercise, all and singular the rights, powers, privileges and duties conferred, granted or imposed by the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties for Judicial and other purposes, and for the future dissolution of*

such Unions as the increase of wealth and population may require, upon Provisional Municipal Councils erected by Proclamation under the authority of the said Act, and also all the powers which may be conferred on Provisional Municipal Councils generally by any other Act or Law in force in Upper Canada; and such Provisional Council shall and may, so soon as they shall think fit so to do, purchase or otherwise procure the necessary property at the Town of Lindsay, which is hereby declared to be the County Town of the said County of Victoria, and proceed to erect the necessary public buildings on such property; and all the provisions of the Act last above cited shall apply to the said Provisional Municipal Council and to the said County of Victoria.

Power to purchase the requisite lands in Lindsay, which shall be the County Town.

3.—So soon as the Court House and Gaol of the said County shall be erected and completed at the Town of Lindsay aforesaid, according to the provisions of the fifteenth section of the said lastly in part recited Act, and the other provisions of the said fifteenth section shall have been complied with by the said County, it shall and may be lawful for the Governor of this Province to appoint the necessary officers as provided by the seventeenth section of the said lastly in part recited Act, and by Order in Council to issue a Proclamation dissolving the union between the said County of Victoria and the said County of Peterborough, from the date to be mentioned in such Proclamation: and all the provisions of the said lastly in part recited Act, or of any other Act, or law in force in Upper Canada applicable to Counties on and after their being separated from other Counties, shall apply to the said Counties of Peterborough and Victoria respectively.

Proclamation and dissolution when the requisite buildings are erected in Lindsay.

County Officers to be appointed.

4.—The said Provisional Council shall first meet at the said Town of Lindsay, and a notice of such meeting shall be published in some newspaper published within the said County of Victoria or in some adjoining County, and a copy of such notice sent by mail or otherwise to each member of such Provisional Council, at least eight days before the day appointed for such meeting, by the Warden of the said United Counties of Peterborough and Victoria; or if such meeting should fail on the said day, a meeting may be called in like manner for another day.

First meeting of Provisional Council.

Notice.

Failure of meeting.

5.—The said Warden of the United Counties of Peterborough and Victoria shall, by a warrant under his hand and seal, appoint one of the Town Reeves or Deputy Town Reeves of the said County of Victoria, to preside at the first meeting of the said Provisional Municipal Council until a Provisional

Warden to appoint a person to preside until election of Provisional Warden.

Warden shall be elected by such Provisional Municipal Council.

Public Act.

6.—This Act shall be deemed a Public Act.

19 & 20 VIC.—CAP. 96.

An Act to settle the Northern Boundary Line of the City of Toronto.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS the Concession Line now forming the northern limit of the liberties of the City of Toronto, (being the allowance for road between the Park Lots and the second Concession in the Township of York,) has been found to diverge from the proper course, and the Common Council of the City of Toronto caused the same to be made straight, and expended a large sum of money in turnpiking and otherwise improving the said line of road and in building stone culverts thereon, and after such expenditure was made it was discovered that the said line in the original survey thereof had been either through carelessness or inadvertence run irregularly and crookedly, by means whereof the line of road upon which such expenditure was made is without the liberties of the said City, and the Mayor, Aldermen and Commonalty of the City of Toronto have no power to retain possession thereof or arrange with the owners and proprietors or others interested in the land so taken in the straightening of the said road for the value thereof or for damages claimed by them; *And whereas* it is expedient that authority be given to the Mayor, Aldermen and Commonalty of the City of Toronto, to straighten the said road and to arrange with the said proprietors or owners of land necessarily taken for that purpose, or other persons interested therein, and that such straight line should be made the northern boundary of the said City of Toronto: *Therefore, &c.*

The Line as straightened to be the northern boundary of Toronto; and the land gained vested in Corporation.

1.—From and after the passing of this Act the said Concession Line so straightened as aforesaid shall be taken to be and shall be the northerly boundary line of the liberties of the said City of Toronto; and all the land lying between the line so straightened and the line as originally run, together with the land contained within the said original line, shall be vested in the Mayor, Aldermen and Commonalty of the City of Toronto for the purposes hereinafter mentioned.

Settlement of claims of persons losing land.

2.—All claims for compensation to parties whose property shall be taken by virtue of the preceding section, shall be settled and adjusted by arbitration in the manner prescribed by

the *thirty-third* section of the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered one hundred and eighty-one.

Municipal Act.

3.—All the land lying between the new line of road so straightened as aforesaid and the southern limit of the old line, and vested in the Mayor, Aldermen and Commonalty of the City of Toronto by this Act, shall be held by them in trust from time to time to convey the same to the respective owners or proprietors of the land lying to the south of and immediately adjoining the said old line of road or the person or persons having the legal estate therein, according to the frontage of their respective lots thereon, so soon as such owner or proprietor, or such other person or persons as aforesaid, or any of them, shall have paid to the said Mayor, Aldermen and Commonalty of the City of Toronto, the value of their several and respective pieces of land agreed upon at any time hereafter between the said respective owners or proprietors, or other person or persons as aforesaid, and the said Mayor, Aldermen and Commonalty of the City of Toronto; and in case such value shall not be agreed upon between them as aforesaid, within one month after the passing of this Act, the same shall be ascertained by arbitration in like manner as is prescribed in the second section of this Act; And in making their award in the premises it shall be the duty of the arbitrators to take into consideration all the circumstances which have rendered necessary the said reference; *Provided always*, that until the settlement of such value and the payment thereof to the said Mayor, Aldermen and Commonalty of the City of Toronto, it shall not be lawful for any person or persons, or other party whomsoever, to enclose or in any wise obstruct the said old line of road under any pretence whatsoever.

How the land gained shall be dealt with.

To be conveyed to certain parties on certain conditions.

Proviso.

4.—This Act shall be deemed a Public Act.

Public Act.

19 & 20 VIC.—CAP. 97.

An Act to authorize the City of London to negotiate a Loan of sixty-three thousand pounds to consolidate the debt of the City, and for other purposes.

[Assented to 1st July, 1856.]

WHEREAS the Corporation of the City of London have petitioned to be authorized by law to borrow, on the debentures of the said City, a sum not exceeding one hundred thousand pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer

Preamble.

of their petition should be granted so far as to enable them to pay off the debts hereinafter set forth: *Therefore, &c.*

City Council
to raise
£63,000 by
Debentures.

1.—It shall and may be lawful to and for the City Council of the City of London to raise by way of loan, upon the credit of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding sixty-three thousand pounds.

Form of
Debentures.

2.—It shall and may be lawful for the Mayor of the said City of London for the time being, to cause to be issued debentures of the said City of London, under the Corporation Seal of the said city, signed by the Mayor and countersigned by the Chamberlain of the said city for the time being, in such sums, not exceeding in the whole the said sum of sixty-three thousand pounds, as the Common Council shall direct and appoint, and the principal sum secured by the said debentures and the interest accruing thereon, shall be made payable in this Province, in Great Britain or elsewhere.

Application
of money so
raised.

3.—So much of the said loan so to be raised as aforesaid as shall be necessary for the purpose, shall be applied by the City Council of the City of London in the redemption of all such debentures of the said city as shall be outstanding when this Act shall come into force; and the Chamberlain of the City of London is hereby authorized and empowered, on receiving instructions so to do, from the City Council, and with the consent of the holders thereof, to call in such debentures of the City of London as may have heretofore been issued by virtue of a By-law of the Town Council of the Town of London, passed on the first day of July in the year of Our Lord one thousand eight hundred and fifty-two, authorizing the issue of debentures to raise by way of loan the sum of five thousand pounds, for the purpose of paying certain debts due by the said Town of London, and for making improvements therein, known as By-law number nineteen; and by virtue of a certain other By-law of the said Town Council, passed on the ninth day of October in the year of Our Lord one thousand eight hundred and fifty-two, authorizing the issue of debentures to raise by way of loan the sum of five thousand five hundred pounds, for the purpose of paying certain debts due by the said town and for making improvements therein, known as By-law number twenty-four; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of January, in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan

Debentures
issued by
virtue of
certain By-
laws may be
called in.

the sum of two thousand pounds, for the purpose of paying the purchase money of certain land acquired for the enlargement of Covent Garden Market, known as By-law number twenty-nine; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of June in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan the sum of nine hundred pounds, for the purpose of defraying the expense of erecting the Firemen's Hall and Engine House on King Street, known as By-law number thirty-eight; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of June, in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan the sum of twenty thousand pounds, for the purpose of paying for certain land purchased for the enlargement of Covent Garden Market, and for defraying the expense of erecting a Town Hall, Market House and other buildings thereon, known as By-law number thirty-six; and by virtue of a certain other By-law of the said Town of London, passed on the seventh day of November, in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the Town Council of the Town of London, to raise by way of loan the sum of six thousand five hundred pounds, for the purpose of constructing a sewer from Waterloo Street to Richmond Street, and thence southerly along the centre of Richmond Street to the River Thames, known as By-law number forty-three; and by virtue of a certain other By-law of the said Council passed on the twenty-second day of August, in the year of Our Lord one thousand eight hundred and fifty-three, authorizing the issue of debentures to raise by way of loan the sum of two thousand pounds, known as By-law number forty; and by virtue of a certain other By-law of the said Council passed on the thirtieth day of January, in the year of Our Lord one thousand eight hundred and fifty-four, authorizing the issuing of debentures to raise by way of loan the sum of two thousand eight hundred pounds, for the purpose of paying for five hundred shares of stock in the London Gas Company, known as By-law number fifty; and by virtue of a certain other By-law of the said Council passed on the second day of October, in the year of Our Lord one thousand eight hundred and fifty-four, to authorize the issue of debentures to the extent of eighteen thousand pounds, to defray the costs of certain improvements in the Town of London, known as By-law number sixty-one; and to substitute therefor debentures to be issued under this Act; *Provided always*, that no debentures shall be

New Debentures to be substituted for those called in.

Proviso.

redeemed before due at any greater sum than was received for such debentures so to be redeemed; *Provided also*, that no portion of the debentures to be issued under this Act, or of the proceeds thereof, shall be applied to the payment of any interest accrued or to accrue on the debentures to be redeemed.

The said By-laws may be repealed upon Debentures being paid.

4.—For and notwithstanding any provision, clause, matter or thing contained in any Act of the Parliament of this Province to the contrary, it shall and may be lawful for the City Council of the City of London, after having called in or paid the debentures described in the next preceding section, to repeal such By-laws in the said section set forth as have not been already quashed by the Court of Queen's Bench for Upper Canada.

Sinking Fund of two per cent. to be provided.

5.—For the payment, satisfaction and discharge of the debentures to be issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City of London, and they are hereby required so to do, in any By-law or By-laws to be passed authorizing the said loan, and the issuing the debentures therefor, to impose a special rate per annum over and above, and in addition to, all other rates to be levied in each year, and over and above the interest to be payable on such debentures, which shall be sufficient to form a sinking fund of two per cent. per annum for that purpose.

Investment of Sinking Fund.

6.—It shall be the duty of the Chamberlain of the City of London, from time to time to invest all sums of money raised by special rate for the sinking fund provided for by this Act, in any debentures issued by the Government of Canada, or in such other securities as the Governor of this Province shall by Order in Council direct or appoint, and to apply all dividends or interest on the said sinking fund to the extinction of the debt created under this Act.

By-laws not to be repealed until debts are paid.

7.—Any By-law to be passed under this Act shall not be repealed until the debt or debts created under this Act and the interest thereon shall be paid and satisfied.

Recital.

8.—*And whereas* the sum of sixteen thousand pounds, part of the debt of the City of London, was contracted in the construction of certain main sewers in the said City, and at the time such sewers were directed to be made, it was the intention of the Corporation that a considerable portion of the cost of such sewers should be raised by assessing the proprietors of such real property as might be immediately benefited by such improvements; but no By-law was ever passed by the Town

Council of the Town of London for that purpose; *Be it, &c.*, that it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of London, to assess the proprietors of such real property in the City of London as may abut upon any public street, highway, square or place through which the said sewers pass, or immediately opposite or near to such sewers, for such sum or sums of money yearly, in like manner as the Common Council of the said City of London are by this Act empowered to impose assessments for the redemption of the debentures to be issued under the authority of this Act.

Special assessments authorized for certain Sewers.

9.—It shall be the duty of the Chamberlain of the City of London, whenever any money shall be collected by virtue of the preceding section of this Act, to invest the same in manner as by this Act is provided for the sinking fund contemplated by this Act.

Money collected to be invested as Sinking Fund.

10.—The funds to be derived from the negotiation of the debentures to be issued under this Act, when received, and all such debentures as shall be issued but not negotiated, shall be deposited by the Chamberlain of the said City for the time being in some one of the chartered banks in this Province, on such conditions as the City Council shall from time to time agree upon, and only be withdrawn therefrom as they may from time to time be required for the payment or redemption of the debentures so to be redeemed.

Funds derived from Debentures to be deposited in Banks.

And how dealt with.

11.—The rate imposed upon the Town of London for the year of our Lord one thousand eight hundred and fifty-three, under any of the By-laws mentioned in the third section of this Act, is hereby declared to be a legal rate; and it shall and may be lawful for the Collector or Collectors of the City of London for the time being, at any time before the first day of January, A.D. one thousand eight hundred and fifty-eight, to collect from the persons rated and charged upon the Collector's roll for the said year of our Lord one thousand eight hundred and fifty-three, who shall not before have paid the taxes so therein imposed, such sum or sums as are rated and set down on the said roll, and to use the same means for the collection thereof, as for the taxes of the year in which such collection shall be made.

Rates imposed in 1853 confirmed.

12.—The By-laws to be made under the authority of this Act shall not affect the priority of any debentures issued for stock taken in any Railway Company.

By-laws not to affect Debentures.

13.—This Act shall be deemed a Public Act.

Public Act.

19 & 20 VIC.—CAP. 98.

An Act to Incorporate the Town of Woodstock, and to divide the same into Wards, and to define the limits thereof.

[Assented to 1st July, 1856.]

Town of
Woodstock
incorporated
from 1st
January,
1857, with
the usual
privileges.

1.—The tract of Land now known as the Town of Woodstock shall, upon and from and after the first day of January, in the year one thousand eight hundred and fifty-seven, be incorporated as a Town, with the rights, powers and privileges of incorporated Towns in general, and as if the said Town had been mentioned and included in the Schedule B. annexed to the Upper Canada Municipal Corporations Act of 1849, and with the rights, powers and privileges which shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns in general; and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of Woodstock as fully as if the said Town had been contained in the said Schedule B., with the exception hereinafter made as regards the first election.

Divided into
five Wards.

2.—The said Town of Woodstock shall be divided into five Wards in the manner described in the Schedule to this Act.

SCHEDULE.

WARDS OF THE TOWN OF WOODSTOCK.

St. Andrew's Ward shall be bounded as follows, that is to say: commencing at the point on the northern limit of the town where the centre line of Vansittart street intersects the said northern limit; from thence extending in a southerly direction along the said centre line of Vansittart street to the northern limit of Dundas street; thence following the same course to the centre line of Dundas street; thence in a southeasterly direction to the point of intersection of the southern limit of Dundas street and the centre line of Bishop street; thence along the centre line of Bishop street and Broadway street, to a point opposite the northern termination of the division line between lots numbers fifteen and sixteen on the south side of Main street; thence southerly to the northern termination of the said division line; thence southerly along the said division line to the southern termination thereof; thence southerly in a straight line to the point where the southern boundary of Sudworth Street intersects the centre

line of Robertson street ; thence in a southerly direction along the centre line of Robertson street, to the southern boundary of lot number twenty-one in the first concession of the township of East Oxford ; thence in the same course to the southern limit of the town ; thence in a westerly direction along the said southern limit to the eastern limit of the allowance for road between the said lot twenty-one and the Gore between East and West Oxford ; thence in a northerly direction along the western limit of the town to the southerly bank of Cedar Creek ; thence following the limit of the town by Cedar Creek and the River Thames to the north-west corner of the town ; thence easterly along the northern limit of the town to the place of beginning.

St. George's Ward shall be bounded as follows, that is to say : commencing at the point on the northern limit of the town where the centre line of Vansittart street intersects the said northern limit ; thence extending in a southerly direction along the said centre line of Vansittart street, to the northern limit of Dundas street ; thence following the same course to the centre line of Dundas street ; thence in an easterly direction along the centre line of Dundas street, to the centre line of Victoria street ; thence in a northerly direction along the centre line of Victoria street, to the centre line of Percival street ; thence in a westerly direction along the centre line of Percival street, to the centre line of Wellington street ; thence in a northerly direction along the centre line of Wellington street, to the northern limit of lot number twenty in the first concession of the Township of Blandford ; thence continuing the same course to the northern limit of the town ; thence along the northern limit of the town, in a westerly direction, to the place of beginning.

St. David's Ward shall be bounded as follows, that is to say : commencing at the point on the northern limit of the town where the centre line of Wellington street produced, would intersect the said northern limit ; thence in a southerly direction along the said centre line of Wellington street to the centre line of Percival street ; thence in an easterly direction along the said centre line of Percival street, to the centre line of Victoria street ; thence in a southerly direction along the centre line of Victoria street, to the centre line of Dundas street ; thence in an easterly direction along the centre line of Dundas street, to a point opposite the south-west angle of lot number eighteen, in the first concession of the Township of Blandford ; thence in a northerly direction to the said south-west-angle ; thence in a northerly direction along the eastern

limit of the town to the north-east angle of the town; thence in a westerly direction along the northern limit of the town to the place of beginning.

St. Patrick's Ward shall be bounded as follows, that is to say: commencing at the point on the centre line of Dundas street, where the centre line of Vansittart street, produced in a southerly direction, would intersect the centre line of Dundas street; thence in a south-easterly direction to the point where the northern limit of Dundas street intersects the centre line of Bishop street; thence southerly and easterly along the centre lines of Bishop street and Broadway street, to a point opposite the northern termination of the division line between lots numbers fifteen and sixteen on the south side of Main street; thence in a southerly direction to the said northern termination of the said division line; thence in a southerly direction along the said division line to the northern termination thereof; thence in a southerly direction in a straight line to the point where the southern boundary of Sudworth street intersects the centre line of Robertson street; thence in a southerly direction along the centre line of Robertson street, to the southern boundary of lot number twenty-one, in the first concession of the Township of East Oxford; thence following the same course to the southern limit of the town; thence in an easterly direction along the southern limit of the town to a point opposite the southern termination of the division line between lots numbers nineteen and twenty, in the first concession of the Township of East Oxford; thence northerly to the said southern termination of the said division line; thence northerly along the said division line to the southern limit of the Great Western Railway; thence in a westerly direction along the said southern limit of the said Railway to the point where the centre line of Victoria street, if produced southerly, would intersect the said southern limit of the said Railway; thence in a northerly direction along the said produced line to the southern termination of the centre line of Victoria street; thence northerly along the said centre line of Victoria street to the centre line of Dundas street; thence in a westerly direction along the said centre line of Dundas street, to the place of beginning.

St. John's Ward shall be bounded as follows, that is to say: commencing at the point where the centre line of Dundas street intersects the centre line of Victoria street; thence in a southerly direction along the centre line of Victoria street, to the northern boundary of the Great Western Railway; thence following the same course to the southern boundary of the

said Railway; thence in an easterly direction along the said southern boundary, to the division line between lots numbers nineteen and twenty in the first concession of the Township of East Oxford; thence in a southerly direction along the said division line, to the northern limit of the allowance for road between the first and second concessions of the Township of East Oxford; thence in the same course to the southern limit of the town; thence in an easterly direction along the southern limit of the town, to the south-east angle of the town; thence in a northerly direction along the eastern limit of the town to the northern limit of Dundas street; thence in a westerly direction along the northern limit of Dundas street to the south-west angle of lot number eighteen in the first concession of the township of Blandford; thence in a southerly direction on the same course as the westerly boundary of the said lot, to the centre line of Dundas street; thence in a westerly direction along the centre line of Dundas street, to the place of beginning.

19 & 20 VIC.—CAP. 99.

An Act to incorporate the Village of Kemptville.

[Assented to 1st July, 1856.]

1.—Upon, from and after the first day of January, one thousand eight hundred and fifty-seven, the tract of land comprised within the boundaries mentioned in the Schedule to this Act shall be a Village under the name of the Village of Kemptville, and the inhabitants thereof shall be incorporated with the rights and privileges of an incorporated Village.

Kemptville
incorporated
as a Village
from 1st Jan-
uary, 1857.

19 & 20 VIC.—CAP. 100.

An Act to legalize a certain By-law of the Municipal Council of the Township of Cornwall.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 108.

An Act to enable the Town Council of the Town of St. Catharines, to sell and convey certain Land purchased by the said Council for the purpose of a Public Cemetery.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 109.

An Act to alter the survey of that part of the Third Concession of the Township of Onondaga, commonly called "Martian's Bend" and to confirm a new survey thereof, and for other purposes.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 110.

An Act to vest in the Agricultural Societies of Middlesex and Elgin, certain Lands in the City of London granted for Agricultural purposes, with power to dispose of the same.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 127.

An Act to authorize the Reverend Henry Patton to convey in fee simple a portion of a certain Glebe.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 129.

An Act to cancel part of the Letters Patent for the endowment of a Rectory in the Township of Warwick.

[Assented to 1st July, 1856.]

Private Act.

19 & 20 VIC.—CAP. 130.

An Act to amend the Act to enable Ministers of the Evangelical Lutheran Church in this Province to solemnize Matrimony and to keep Registers of Marriages, Baptisms and Burials.

[Assented to 1st July, 1856.]

Preamble.

18 Vic. c. 58.

WHEREAS it is expedient to amend the Act passed in the eighteenth year of Her Majesty's reign, intituled, *An Act to amend the Act to enable Ministers of the Evangelical Lutheran Church in this Province to solemnize Matrimony and to keep Registers of Marriages, Baptisms and Burials: Therefore, &c.*

1.—The first section of the Act mentioned in the preamble of this Act is hereby repealed; and the following section shall be substituted in lieu thereof, and shall be held to be the first section of the said Act:

Section 1 of the said Act repealed.

“In Upper Canada, all the powers, privileges and advantages by the Act of the Legislature of the late Province of Upper Canada, passed in the eleventh year of the reign of his Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted and to provide for the future solemnization of Matrimony in this Province*, conferred upon or vested in any Clergyman or Minister of any of the several religious denominations mentioned in the third section of the said Act, shall be and the same are hereby conferred upon and vested in any Clergyman, Minister, or Pastor of the said Religious denomination called The Evangelical Lutheran Church, whether he be or be not a subject of Her Majesty by birth or naturalization, (provided he shall take the oath of allegiance to Her Majesty and otherwise comply with the requirements of the fourth section of the said last cited Act,) as fully and effectually to all intents and purposes, and upon the same conditions and restrictions with respect to his ordination, constitution and appointment as such Clergyman, Minister or Pastor, as if the Evangelical Lutheran Church aforesaid had been among the number of religious denominations mentioned in the said third section, and subject to all the penalties imposed by the said Act for any contravention of the provisions thereof.”

Ministers of the said persuasion to have the benefit of the Act of U. C. 11 Geo. IV. c. 36, although not subjects of Her Majesty, provided they take the oath of allegiance and otherwise comply with the said Act.

5.—This Act shall be deemed a Public Act.

Public Act.

19 & 20 VIC.—CAP. 140.

An Act to change the Constitution of the Legislative Council by rendering the same Elective.

Reserved for the signification of Her Majesty's pleasure 16th May, 1856.

The Royal Assent given by Her Majesty in Council on the 24th June, 1856; and Proclamation thereof made by His Excellency Sir EDMUND WALKER HEAD, Governor General, in the Canada Gazette of the 14th July, 1856.

1.—The Legislative Council shall hereafter be composed of the present Members thereof, and of forty-eight Members to be elected, in the proportion and at the times and in the manner hereinafter provided; and to this end, the Province shall be divided into forty-eight Electoral Divisions, twenty-four in Upper Canada and twenty-four in Lower Canada, in the manner set forth in Schedule A.

How the Legislative Council shall be constituted hereafter.

SCHEDULE A.
UPPER CANADA.

NAMES OF ELECTORAL DIVISIONS.	LIMITS OF ELECTORAL DIVISIONS.
Western.....	The Counties of Essex and Kent.
St. Clair.....	The County of Lambton and the West Riding of Middlesex.
Malahide.....	The East and West Ridings of Elgin, the East Riding of Middlesex and the City of London.
Tecumseth	The Counties of Huron and Perth.
Saugeen.....	The Counties of Bruce and Grey and the North Riding of Simcoe.
Brook.....	The North and South Ridings of Wellington and the North Riding of Waterloo.
Gore.....	The South Riding of Waterloo and the North Riding of Oxford.
Thames	The South Riding of Oxford and the County of Norfolk.
Erie	The East and West Ridings of Brant and the County of Haldimand.
Niagara.....	The Counties of Lincoln and Welland and the Town of Niagara.
Burlington.....	The North and South Ridings of Wentworth and the City of Hamilton.
Home.....	The Counties of Halton and Peel.
Midland.....	The North Riding of York and the South Riding of Simcoe.
York	The City of Toronto and the Township of York.
King's	The East and West Ridings of York (except the Township of York) and the South Riding of Ontario.
Queen's.....	The North Riding of Ontario, the County of Victoria and the West Riding of Durham.

NAMES OF ELECTORAL DIVISIONS.	LIMITS OF ELECTORAL DIVISIONS.
Newcastle	The East Riding of Durham and the East and West Ridings of Northumberland.
Trent	The County of Peterborough, the North Riding of Hastings and the County of Lennox.
Quinté	The South Riding of Hastings and the County of Prince Edward.
Cataraque	The Counties of Addington and Frontenac, and the City of Kingston.
Bathurst	The South Riding of Leeds and the North and South Ridings of Lanark.
Rideau	The Counties of Renfrew and Carleton and the City of Ottawa.
St. Lawrence...	The Town of Brockville and Township of Elizabethtown, the South Riding of Grenville, the North Riding of Leeds and Grenville and the County of Dundas.
Eastern	The Counties of Stormont, Prescott, Russell, Glengarry and the Town and Township of Cornwall.

20 VIC.—CAP. 7.

An Act to amend the Laws regulating Ferries, so as to encourage the employment of Steamboats as Ferry boats in Upper Canada.

[Assented to 27th May, 1857.]

WHEREAS it is necessary and expedient to afford greater inducements than now by Law exist for the purpose of establishing steam ferries in Upper Canada, and it is necessary to amend the Laws regulating ferries, in order that this desirable object may be attained: *Therefore, &c.*

Preamble.

1.—In all cases where a ferry is required over any stream or other water within Upper Canada, and the two shores of such stream or other water shall be in different Municipalities, the said Municipalities not being in the same County, it shall and may be lawful for the Governor in Council to grant a license under the Great Seal of the Province, to either of such

A license to have a steam ferry between two Municipalities may be granted to Municipalities in U. C.

by the
Governor.

Municipalities exclusively, or to both conjointly, as may be most conducive to the public interest, such license to confer a right in such Municipality or Municipalities to establish a ferry from shore to shore on such stream or other water, and with such limit and extent as shall appear advisable to the Governor in Council, upon condition that the craft to be used for the purpose of such ferry shall be propelled by steam; and the craft shall be of such dimensions, and engine of such power as the Governor in Council shall direct; and also subject to such further and other conditions as to the Governor in Council may seem meet.

Period of
license.

2.—Such license may be granted for any period not exceeding fifty years.

Municipal-
ities may
sub-let such
ferry.

3.—Upon the receipt of the said license, it shall be lawful for the Municipality or Municipalities to whom such license shall have issued, to pass a By-law declaring their determination to sub-let the said ferry, which ferry the said Municipality or Municipalities is or are hereby authorized to sub-let, for such price, and upon such terms, and to such parties, and on such conditions as to the rates of such ferriage to be paid, as the said Municipality or Municipalities may deem best, provided that in so sub-letting, the said Municipality or Municipalities shall not in any way contravene the terms of the license from the Crown.

Incorporated
cities, towns
and villages
to have the
preference
as to such
license.

4.—In all cases where the one shore of such stream or other water is within the limits of a City, Town or incorporated Village, and the other shore of such stream or other water in a Township or other rural Municipality, the license shall in all cases be issued to the City, Town or incorporated Village as aforesaid: *Provided always*, that in all cases where the Rural Municipality opposite to any such City, Town or incorporated Village, shall be an Island, then the license shall be granted to the Island Municipality.

No license to
be granted
to parties
not within
the province.

5.—And as in order to encourage the establishment of good Ferries, for the accommodation of commerce on the line of the Provincial Frontier, it is essential to place the control and management of the same in the Municipalities immediately interested, no license shall in future be granted to any person or body corporate beyond the limits of the Province, but such License in all cases shall be granted to the Municipality within the limits of which such Ferry exists, or in case of the establishment of any additional Ferry on the Provincial Frontier, then to the Municipality in which any such additional Ferry shall be established.

- 6.**—All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed. Inconsistent enactments repealed.
- 7.**—This Act shall extend only to Upper Canada. Act limited to U. C.
- 8.**—The Interpretation Act shall apply to this Act. Interpretation.

20 VIC.—CAP. 8.

An Act to discontinue the Lunatic Asylum Tax in Upper Canada, and to substitute certain other moneys as part of the Upper Canada Building Fund.

[Assented to 27th May, 1857.]

WHEREAS it is expedient to discontinue the Lunatic Asylum Tax now levied in Upper Canada, and to apply certain other Upper Canadian funds to the purposes for which such Tax was imposed: *Therefore, &c.* Preamble.

1.—The yearly Rate or Tax imposed in and by the second section of the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to provide Funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, shall not be levied for any year after the present, but, instead thereof, all moneys which by any Act or Law are directed to be applied or reserved for Upper Canadian purposes, but not otherwise specially appropriated by law, shall be paid into and from part of the Upper Canada Building Fund established under the authority of the third section of the said Act. Tax imposed by s. 2 of 13 & 14 Vic. c. 68, repealed after 1857.

2.—All moneys forming part of the said Upper Canada Building Fund, may be invested by the Receiver General, under instructions from the Governor in Council, in Public Provincial Securities, until required for the Public Service, and the interest on such securities shall form part of the said Fund; and such securities, or so many of them as may be necessary, may be disposed of by the Receiver General, from time to time, under instructions from the Governor in Council, and the proceeds thereof applied to meet any payments lawfully to be made out of the said Fund. Other moneys appropriated to U. C. Building Fund.

20 VIC.—CAP. 12.

An Act for the better Prevention of Accidents on Railways.

[Assented to 27th May, 1857.]

16.—No horses, sheep or swine or other cattle, shall be permitted to be at large upon any highway within a half mile of Investment of moneys belonging to the said Fund.

No horses or cattle to be allowed to be

at large on
any highway
within half
a mile of any
Railway.

the intersection of any highway with any Railway on grade unless the same respectively shall be in the charge of some person or persons to prevent their loitering or stopping on such highway at such intersection with any Railway, and all such cattle so found at large in contravention hereof, may be impounded by any person finding the same at large, in the nearest pound to the place where the same shall be so found, and the pound keeper with whom the same shall be so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property, and no person, any of whose cattle so at large, shall be killed by any train at such point of intersection, shall have any action against any Railway Company in respect to the same being so killed.

20 VIC.—CAP. 18.

An Act to require accounts rendered to the Provincial Government to be so rendered in dollars and cents.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS it will greatly facilitate the keeping and audit of the public accounts of the Province, that the same be kept in dollars and cents: *Therefore, &c.*

Accounts to
the Govern-
ment to be
rendered in
dollars and
cents.

Column for
£ s. d. may
be added.

1.—All accounts to be rendered to the Provincial Government or to any Public Officer or Department in this Province, by any Officer or Functionary, or by any party receiving aid from the Province, or otherwise accountable to the Government or Legislature thereof, shall be so rendered in dollars and cents; but any such accounts may have a second column containing sums in pounds shillings and pence, equivalent to the sums so stated in dollars and cents, if the accountant shall prefer to render his account in that form.

20 VIC.—CAP. 20.

An Act to amend the Consolidated Municipal Loan Fund Act.

[Assented to 10th June, 1857.]

Preamble.

16 Vic. c. 22.

WHEREAS by the seventh section of the Consolidated Municipal Loan Fund Act (sixteenth Victoria, chapter twenty-two, it is provided that if any sum of money which ought under the said Act to be paid by the Treasurer of any Municipality to the Receiver General, shall remain unpaid during three months or upwards after it ought to have been so paid, then

upon the certificate of the Receiver General that such sum is so due and unpaid, it shall be lawful for the Governor to issue his warrant to the Sheriff of the County, reciting the facts, commanding him forthwith to levy such sum by rate, &c., which said provision was extended to Lower Canada (with the other parts of the said Act) by the Act eighteenth Victoria, chapter thirteen, and made to apply in like manner to the Sheriffs of Judicial Districts therein; *And whereas* it may not at all times be expedient to direct a levy at one and the same time of the whole sum for which any such Municipality may be in default as aforesaid: *Therefore, &c.*

18 Vic. c. 13.

1.—So much of the seventh section of the Act above recited as renders it necessary in all cases that the warrant of the Governor shall issue for the whole amount due by the Municipality, is hereby repealed; and it shall be lawful for the Governor, if he shall see fit, to issue his warrant to the Sheriff, directing the rate which he shall levy; *Provided nevertheless*, that such rate shall not be less than two shillings and six pence in the pound on the yearly value of the assessable property in the Municipality; or a proportionate rate on the actual value of such property,—reckoning the yearly value at six per cent. on its actual value—except in cases in which the proceeds of such rate would, in the opinion of the Governor, exceed the amount for which such Municipality is in default and the costs of the levy, when it shall be lawful for the Governor to direct such rate to be so levied as will, in his opinion, produce an amount fully sufficient to pay that for which the Municipality is in default and the costs of the levy, the surplus (if any) being returned to the Municipality according to law: *Provided further*, that it shall be the duty of the Treasurer of any Municipality in arrear for any sum of money under the said recited Act, within one month after the time when such sum of money is payable, to certify to the Secretary of the Province, the total value of the assessable property, and the rate in the pound in such Municipality, for the year next preceding such default.

Governor may fix a rate instead of causing the whole amount in default levied at once.
 Proviso: rate limited, &c.

Treasurer of Municipality in arrear to certify assessed rate and last value to Provincial Secretary.

2.—It shall be lawful for the Governor, in all cases in which a Municipality shall be certified to him by the Receiver General to be in default as aforesaid, to issue his warrant to the Sheriff, directing him to seize all goods and chattels, and other property or things liable to be seized in execution, lands and tenements, belonging to such Municipality, and to sell the same, or so much thereof as may be necessary to produce the amount for which such Municipality is in default and costs, as he would under execution against such Municipality,

Governor may direct the property of the Municipality to be seized.

Exceptions.
Proviso.
Certain property not to be seized.

and to pay the proceeds unto the Receiver General in liquidation of such amount: *Provided always*, that no School House or Houses, Alms House, Fire Engine or Fire hoses or Engine House, Court-house or Gaol, or property required for the administration of Justice, shall be seized or sold under such warrant.

Provisions as to the liability under the said Act, of Counties united when the loan was contracted but separated before it is paid.

3.—*Provided always*, That whenever a loan shall have been effected on the credit of the said Consolidated Municipal Loan Fund by any Union of two or more Counties then united for Municipal purposes, but which have been or shall be afterwards separated before such loan shall have been paid, and such Counties shall upon such separation have agreed or shall hereafter agree in the manner provided by law, as to the part which each or any of them shall have in the liability arising out of such loan, then such agreement shall be the rule by which the Receiver General shall be guided in ascertaining the liability of each of such Counties, and the amount to be paid by or levied upon each of them in respect of such loan, in case of any default to pay any sum which ought under the said Act to be paid to the Receiver General in respect of the same; and any County having paid its share of such liability so ascertained shall not be liable in respect of the share thereof of the other County or Counties united with it when the loan was effected.

Municipality's share of Clergy Reserve Fund may be taken in payment.

4.—It shall be lawful for the Governor to direct the Receiver General to withhold the share of the Clergy Municipalities Fund accruing and which may hereafter accrue to any Municipality certified by the Receiver General to be in default or from the several Municipalities in any County while such County is so certified to be in default, and to carry such share or shares to the credit of such Municipality or County on account of such default.

20 VIC.—CAP. 26.

An Act to encourage the gradual Civilisation of the Indian Tribes in this Province, and to amend the Laws respecting Indians.

[Assented to 10th June, 1857.]

To what persons only s. 3 of 13 & 14 Vic. c. 74, shall apply.

1.—The third section of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign chaptered seventy-four and intituled, *An Act for the protection of the Indians in Upper Canada from imposition and the property occupied or enjoyed by them, from trespass and injury*,

shall apply only to Indians or persons of Indian blood, or inter-married with Indians, who shall be acknowledged as members of the Indian Tribes or Bands residing upon lands which have never been surrendered to the Crown (or which having been so surrendered have been set apart or shall then be reserved for the use of any Tribe or Band of Indians in common) and who shall themselves reside upon such lands, and shall not have been exempted from the operation of the said section, under the provisions of this Act; and such persons and such persons only shall be deemed Indians within the meaning of any provision of the said Act or of any other Act or Law in force in any part of this Province by which any legal distinction is made between the rights and liabilities of Indians and those of Her Majesty's other Canadian Subjects.

Such persons only to be deemed Indians for certain purposes.

20 VIC.—CAP. 28.

An Act for establishing Prisons for Young Offenders—for the better government of Public Asylums, Hospitals and Prisons, and for the better construction of Common Gaols.

[Assented to 10th June, 1857.]

14.—*And whereas* it is expedient to establish a uniform system for the government and inspection of Public Asylums, Hospitals and Prisons, and to provide for the better construction of the Common Gaols of this Province: *Therefore, &c.*

Recital.

It shall be lawful for the Governor to appoint five fit persons to be Inspectors of all Public Asylums, Hospitals, Common Gaols and other Prisons in this Province, and to appoint one of such persons to be their Chairman, and the said Inspectors shall hold office during pleasure.

Appointment of Board of Inspectors.

19.—The Inspectors shall visit and inspect, either singly or together as may be determined upon by them, or as may be ordered by the Governor, every Gaol, House of Correction and Prison or place kept or used for the confinement of persons, in any part of this Province, other than the said Provincial Penitentiary and Reformatory Prisons, as often as may be determined upon by them or ordered by the Governor, and at least twice in the year; and the said Inspectors or Inspector shall have authority to examine any person holding any office or receiving any salary or emolument in any such place of confinement as aforesaid, and to call for and inspect all books and papers relating to such place of confinement, and to enquire into all matters concerning the said place of confinement; and every Inspector singly making an inspection as aforesaid

Inspectors to visit all Gaols, &c.

May examine all Officers, &c.

Report by

single Inspector to the Board.

shall make a separate and distinct report, in writing, of the state of every place of confinement so visited by him to the Board of Inspectors.

Inspectors, with approval of Governor, to determine the plan of all future Gaols: none to be built except on such plan.

20.—From and after the time when this Act shall come into force, every Gaol that shall be erected in this Province shall be made and built according to a plan which shall be approved of by the Inspectors and sanctioned by the Governor; and no Gaol that shall be built in any District in Lower Canada or County in Upper Canada, otherwise than according to a plan approved and sanctioned as aforesaid, or that shall not after its completion receive the approval of the said Inspectors, shall be deemed to be in law the Gaol of such District or County.

Inspectors to report on improvements required in Gaols.

21.—Every District Gaol in Lower Canada and County Gaol in Upper Canada now erected, or which may be in the course of erection when this Act shall come into force, shall be inspected as speedily as may be convenient by the said Inspectors for the purpose of ascertaining whether such Gaol satisfies the requirements of the next succeeding section of this Act, and they shall report thereon to the Governor, and in Upper Canada transmit a copy of such Report to the Warden of every County in which such Gaol is situate, or in the course of erection as aforesaid.

Matters to be taken into consideration by the Inspectors in determining the plan of any Gaol.

22.—The Inspectors, before deciding in any case upon the plan of a Gaol most proper to be adopted, or upon any alterations or additions they may propose in their Report to be made according to the next preceding section of this Act, shall take into consideration the nature and extent of the ground on which such Gaol has been or is to be built, its relative situation to any streets and buildings and to any river or other water; its comparative elevation and capability of being drained; the materials of which it has been or is to be composed; the necessity of guarding against cold and damps, and of providing properly for ventilation; the proper classification of persons, having respect to their age, sex, and the cause of their confinement; the best means of ensuring their safe custody without the necessity of resorting to severe treatment; the due accommodation of the keeper of the Gaol so that he may have ready access to the prisoners and may conveniently oversee them; the exclusion of any intercourse with persons without the walls of the building; the prevention of nuisances from whatever cause; the combining provision as well for the reformation of convicts so far as may be practicable, as for their employment, in order that the Common Gaols may really

serve for places of correction; the admission of prisoners to air and exercise without the walls of the building; and the enclosure of the yard and premises with a secure wall.

23.—Within seven months after this Act shall come into force, it shall be the duty of the Warden of each County in Upper Canada, to call a special meeting of the County Council; and such County Council shall thereupon appoint a special Committee to confer with the Inspectors and to arrange with them any alterations and additions that may be deemed necessary to make their County Gaol satisfy the requirements of the twenty-first section of this Act, and to report the same to the said County Council; and in case the Inspectors and such Committee do not agree upon the alterations or additions, the matter then shall be referred to the Governor in Council to decide between them, and thereupon the decision shall be reported to the County Council; and it shall be the duty of the said County Council in either case, by By-law, to order and provide for the making of the said alterations and additions, and for the appropriation of any money that may be required for that purpose.

Provision for securing the requisite improvements in the County gaols in Upper Canada.

24.—It shall be the duty of each County Council in Upper Canada, and they are hereby required and empowered to levy and raise such a sum by direct taxation as shall be sufficient to make the said alterations and additions, or at their option to borrow the money so required, under a By-law to be passed for that purpose, for such number of years as they may deem expedient; in such By-law there shall be imposed and settled a special rate over and above and in addition to all rates whatsoever, to be levied in each year for the payment of the said loan, and sufficient, according to the last assessment returns before the passing of such By-law, to pay the whole amount of the said loan and interest within the period fixed by the said By-law for the payment thereof.

County Councils to raise money to make the required improvements and how.

25.—The Inspectors and the said Special Committee of the County Council shall, in arranging the necessary alterations and additions as aforesaid, have due regard to the plan of the Gaol as they shall find it, and to the ability of the County to meet the expense thereof, and shall make as few and as inexpensive alterations and additions as in their opinion the requirements of this Act will allow.

Certain points to be considered in deciding the alterations.

26.—In order to aid the said County Councils in Upper Canada in making the said alterations and additions in the Gaols of their respective Counties, it shall be lawful for the Governor to pay from and out of the "Upper Canada Build-

Aid to the Counties out of the U. C. Building Fund.

ing Fund" to the Treasurer of each County, a sum not exceeding one half of the expense of the same, and not exceeding the sum of one thousand five hundred pounds for any one County.

Inspectors to make rules for the government of Common Gaols.

27.—The said Inspectors shall, as soon as may be convenient, frame a set of rules and regulations for the government of the Common Gaols of this Province, extending to the maintenance of the prisoners in regard to diet, clothing, bedding and other necessities; their employment; medical attendance; religious instruction; the conduct of the prisoners and the restraint and punishment to which they may be subjected; and also to the treatment and custody of the prisoners generally, and to the whole internal economy and management of the Gaol, and all such matters connected therewith as shall be thought by them expedient; which rules and regulations shall be submitted to the Governor for his approval and confirmation: *Provided always*, that nothing herein contained shall be held to prevent the County Councils in Upper Canada from making such special regulations as the peculiar circumstances of their respective Gaols and localities may in their opinion require,—such special regulations not being inconsistent with the provisions of this Act, or with the general rules and regulations so to be made by the Inspectors and approved by the Governor, as aforesaid.

Proviso: County Councils may make special regulations.

20 VIC.—CAP. 36.

An Act to authorize investigations in case of accident by Fire, and to repeal the Act authorizing such investigations in the Cities of Quebec and Montreal.

[Assented to 10th June, 1857.]

Coroner to inquire into the origin of fires in Cities, Towns and Villages.

2.—It shall be the duty of the Coroner within whose jurisdiction any City, or incorporated Town, or incorporated Village, in this Province, shall lie, whenever any fire shall occur, whereby any house or other building in such City, Town, or Village shall be wholly or in part consumed, to institute an inquiry into the cause or origin of such fire, and whether it was kindled by design, or was the result of negligence or accident, and to act according to the result of such inquiry; and for the purpose aforesaid such Coroner shall summon and bring before him all persons whom he may deem capable of giving information or evidence touching or concerning such fire, and shall examine such persons on oath, (administering such oath to them,) and shall reduce their examinations to writing, and return the same to the Clerk of the Peace for the District or County within which they shall have been taken:

Evidence to be taken on oath.

Provided always, that it shall not be the duty of any Coroner to institute an inquiry into the cause or origin of any fire or fires by which any house or other building is wholly or partly consumed, nor shall such inquiry be had, until it has first been made to appear to such Coroner that there is reason to believe that such fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as in the interests of justice and for the due protection of property to require an investigation. Proviso:

7.—When any such inquiry shall have been held by the Coroner, and not by any other Officer as aforesaid, in conformity with this Act, the Coroner holding the same shall be entitled therefor to the sum of two pounds ten shillings, and should the said inquiry extend beyond one day, then to two pounds ten per diem for each of two days thereafter, and no more: And the official order of such Coroner for the same, upon the Treasurer of the City, Town or Village in which such inquiries shall be holden, shall be paid by the said Treasurer out of any funds he may then have in the Treasury, as he is hereby commanded to do upon the presentation of such order. Such inquiry not to take place except under certain circumstances.

Allowance to Coroners holding inquiries, and how paid.

20 VIC.—CAP. 55.

An Act to declare the meaning of the Auction Duties Act of 1841, with respect to Sales in Rural Districts.

[Assented to 27th May, 1857.]

WHEREAS doubts have arisen as to the correct interpretation of the Auction Duties Act of 1841, and it is desirable to remove the same: *Therefore, &c.* Preamble.

1.—The provisions of the Act of 1841, intituled, *An Act to make certain alterations in the law relative to the duty upon sales of property by Auction*, were never intended by the Legislature to apply, and do not apply to the sales by auction frequently held in the Rural Districts, but not for trading purposes, either by the inhabitants selling their furniture, grain, cattle and real estate or chattel property other than merchandize or stock in trade, when changing their residence or finally disposing of the same: *Provided always*, that no duly licensed auctioneer who may have sold by auction any such furniture, grain, cattle and real estate or chattel property, and who may have received duties and fees thereon, shall be sued or in any way made liable therefor. Act 4 & 5 Vic. c. 21, not to apply to certain sales in the Country parts.

Proviso.

20 VIC.—CAP. 66.

An Act to amend the Laws relating to the Solemnization of Matrimony in Upper Canada.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS under the laws now in force in Upper Canada, privileges are claimed with regard to the solemnization of matrimony, by the Clergymen and Ministers of certain denominations, which are partial in their character and offensive to certain other religious denominations, and their Clergymen and Ministers; *Therefore, &c.*

Ministers of any denomination may solemnize marriage.

1.—From and after the passing of this Act, the Ministers and Clergymen of every religious denomination in Upper Canada, duly ordained or appointed according to the rites and ceremonies of the Churches or denominations to which they shall respectively belong, and resident in Upper Canada, shall have the right to solemnize the ceremony of Matrimony, according to the rites, ceremonies and usages of such Churches and Denominations respectively, by virtue of such ordination or appointment.

Ministers marrying must give certificate if required.

2.—Every Clergyman or Minister who shall celebrate Matrimony in Upper Canada, from and after the time of the passing of this Act, shall, if required, at the time of such marriage by either of the parties thereto, give a certificate under his hand of such marriage, specifying the names of the parties married, the time and the names of two or more persons who witnessed such marriage, and whether such marriage was solemnized pursuant to license or publication of banns; and for every such certificate, the Clergyman or Minister giving the same shall be entitled to ask, demand, or receive from the party so requiring the same, the sum of one shilling and three pence.

Fee for certificate.

Ministers to enter every marriage in a Book, with particulars as per Schedule.

3.—From and after the first day of January, one thousand eight hundred and fifty-eight, every Clergyman or Minister, shall, immediately after the solemnization by him of any marriage, enter in a book to be by him kept for that purpose, which book shall be and continue to be the property of the church or denomination to which he shall belong at the time of such marriage, a true record of such marriage, embracing all the particulars set forth in the body of the Schedule hereunto annexed; and on or before the first day of February, in each and every year, after the year one thousand eight hundred and fifty-eight, it shall be the duty of every such Clergyman, and he is hereby required to return a certified list according to the

And make a return of all marriages yearly to the Registrar of the County.

form, and specifying the particulars in the said Schedule set forth, of all marriages by him solemnized during the year ending on the thirty first day of December, then next preceding, to the Registrar of the County in which such marriage shall have taken place, and at the time of making such return to pay or transmit to such Registrar the sum of five shillings for every such list; and on receipt by such Registrar of every such list, it shall be his duty to file the same among the paper of his office, and to record the same in a book to be kept by him for that purpose; and every such register, or a certified copy thereof, shall be considered in the case of the death or absence of the witnesses to any such marriage, as a sufficient evidence thereof; and the said Registrar is hereby required to give a certified copy of any such marriage record to any person demanding the same, on the payment of the sum of two shillings and six pence; and every such Clergyman or Minister shall, before solemnizing such marriage, be entitled to ask, demand, and receive from either of the parties to such marriages the sum of ten shillings, to enable him to pay the said sum so to be paid or transmitted by him to such Registrar, and to remunerate him the said Clergyman or Minister, for the trouble and expense attendant on the preparing and transmission of such certified list to the Registrar; and every such Clergyman or Minister who shall neglect or refuse to return such certified list as aforesaid, shall forfeit and pay for every day he shall so neglect or refuse, beyond the time respectively herein fixed for making such return, the sum of one pound, which shall be recoverable before any magistrate of the County in which such Clergyman or Minister may reside, with costs, and shall be applied, as fines now inflicted under the Summary Convictions Act of Upper Canada; *Provided however*, that nothing in this Act contained shall be construed or held to prevent the payment to the officiating Clergyman or Minister of such remuneration as the parties may see fit to make.

Registrar's duties and effect of copies from Registrar.

Fees to Registrars for copies.

Fees to Ministers for Marrying.

Fines for neglecting to certify list of marriages.

Proviso: parties married may give what remuneration they think fit.

4.—In the event of the death or removal of any Minister or Clergyman before making the annual return hereinbefore provided for, it shall be the duty of his successor or other person having the legal custody of the book referred to in the next preceding section of this Act, to transmit to the Registrar of the County in which any such marriage shall have taken place, a certified copy of all marriages therein recorded, in the same manner as is provided for, and subject to the same penalties for neglect of non-performance of such duty, as is mentioned in the next preceding section, and such Registrar shall record the

In case of death or removal of Minister, his successor to make the return to the Registrar.

same as if such return had been made by the Minister or Clergyman who *de facto* celebrated such marriage.

Punishment of persons not being Ministers pretending to solemnize marriage.

5.—Any person not being a Clergyman or Minister of a religious denomination existing in Upper Canada, who shall solemnize or pretend to solemnize matrimony under the provisions of this Act, and any person who shall falsely personate any Clergyman or Minister for the purpose of officiating at any such ceremony, shall be guilty of a misdemeanor, and shall be liable for every such offence to be imprisoned in the Provincial Penitentiary, for a period not exceeding two years, or to suffer such other Punishment, either by fine or imprisonment, or both, as any Court of Record having competent jurisdiction in Upper Canada shall deem meet and just; and it shall rest upon any person accused of such offence to prove the fact of his being a duly ordained or appointed Minister or Clergyman of the religious denomination to which he shall profess to belong, and that such denomination had at the time of the solemnization of such marriage a known existence in Upper Canada.

Proof or ordination or appointment to lie on defendant.

Punishment of persons procuring persons not Ministers to pretend to marry, &c.

6.—Any person knowingly procuring any other person not being a Minister or Clergyman of some religious denomination existing in Upper Canada, to perform the ceremony of matrimony, or who shall knowingly aid or abet any such pretended Clergyman or Minister, in performing such ceremony, shall be guilty of misdemeanor, and shall be liable to the punishment provided for in the next preceding section of this Act.

Quakers' marriages declared valid.

Who shall send the return to the Registrar.

7.—Every marriage which shall be duly solemnized according to the rites, usages and customs of the Religious Society of Friends, commonly called Quakers, shall be and is hereby declared valid, and the duty imposed by the third section of this Act, upon every Minister and Clergyman, with regard to marriages solemnized by them, shall, with regard to such marriages, be performed by the Clerk or Secretary of the Society of Meeting where such marriage was solemnized, and in default of the performance of any such duty by any such Clerk or Secretary, he shall be liable to the penalty prescribed by the said third section, for default, in the case therein named.

Clerks of the Peace to mail copies of this Act to Ministers entitled to marry under it.

8.—It shall be the duty of the Clerk of the Peace of each County or Union of Counties in Upper Canada, to procure without delay from the Queen's Printer, a sufficient number of copies of this Act to enable him to mail one to the Address of each Clergyman or Minister entitled to solemnize Matrimony under the provisions of this Act, whom he shall know, or shall ascertain at any time within six months from and after the passing of this Act, to be resident in such County or Union of

Counties, and to mail the same accordingly; and also from time to time to furnish all such Clergymen or Ministers on demand with the books and with printed blank forms for the lists to be used and returned by them in pursuance of this Act, and such books shall have columns and headings printed on each page thereof, according to the form of the Schedule hereunto annexed, and shall, as shall also the blank forms aforesaid, be of such size and form as to admit of the necessary entries being conveniently made therein; and the cost of such books and forms, as well as of procuring and distributing copies of this Act as aforesaid, shall be borne by the Counties or Unions of Counties respectively.

And to furnish books and printed forms.

Cost thereof how paid.

9.—Copies of this Act shall be mailed from the office of the Provincial Secretary to the addresses of the Clerks of the Peace of the several Counties and Unions of Counties in Upper Canada respectively, as soon as conveniently may be after the passing of the same.

Copies of this Act to be sent to Clerks of the Peace.

10.—All Acts and parts of Acts inconsistent with this Act, shall be and the same are hereby repealed.

Inconsistent enactments repealed.

11.—This Act shall apply to Upper Canada only.

Act limited to U. C. only.

20 VIC.—CAP. 71.

An Act to explain and amend the Clergy Reserves Appropriation Amendment Act of 1856, as regards the mode of ascertaining the number of Rate-payers in the several Municipalities in Upper Canada.

[Assented to 10th June, 1857.]

For the removal of doubts under the enactment hereinafter mentioned, Her Majesty enacts: Preamble.

1.—The word “Rate-payers” in the first and second sections of the Act passed in the Session held in the nineteenth and twentieth years of Her Majesty’s reign, and intituled, *An Act to amend the Provincial Act appropriating the moneys arising from the Clergy reserves*, shall be held and taken to mean those persons and those only who shall be residents within the limits of the Municipalities mentioned in the said Acts, and whose names shall appear on the Assessment Rolls of each Municipality as Rate-payers: And the affidavit to be made and returned to the Receiver Generals Office by the Clerks of the several Municipalities, under the second section of the said Act, shall be made in the form of the Schedule to this Act annexed.

Word “Rate-payers” in 19 & 20 Vlc. c. 16, how to be construed.

Form of affidavit under said Act.

2.—It shall be lawful for the several Municipalities aforesaid by by-law to set apart for any special purpose, which special purpose shall be mentioned in such By-law, the whole or any part of the moneys derived from the “Upper Canada Municipalities Fund,” and to invest the same in the purchase of Provincial, Consolidated Loan Fund, or Municipal Debentures, for the purposes mentioned in such By-law, and from time to time to sell and dispose of such securities and re-invest the proceeds in other like securities, or otherwise appropriate the same in the manner mentioned in and directed by the said By-law or other By-law passed for that purpose.

Municipalities may set aside their share of the Clergy Reserves moneys for any special purpose, and invest is.

3.—*And whereas* several of the said Municipalities have heretofore set apart and invested moneys derived from the said fund, for special purposes; *Be it, &c.*, That any By-law heretofore passed setting apart and authorizing the investment of such moneys as last aforesaid, and under which By-law such moneys have been actually invested, shall be held to be a good and valid By-law.

Recital.

By-laws already made for setting apart and investing such share, confirmed.

20 VIC.—CAP. 72.

An Act to make valid the Deeds given by Sheriffs to the Assignees of purchasers of Land sold for Taxes under thirteenth and fourteenth Victoria, chapter sixty-seven.

[Assented to 10th June, 1857.]

Preamble.

13 & 14 Vic.
c. 67.

Doubts re-
cited.

Deeds from
the Sheriff
to the
purchaser's
assignee de-
clared valid.

WHEREAS many of the lands sold for taxes under the Act of thirteenth and fourteenth Victoria, chapter sixty seven, intituled, *An Act to make valid the Deeds given by Sheriffs to the Assignees of purchasers of Land sold for Taxes under thirteenth and fourteenth Victoria, chapter sixty-seven*, were assigned by the purchasers thereof before the period for receiving the Sheriff's deed had arrived, and the Assignees of such purchasers applied to the respective Sheriffs and received Deeds from them of the Lands so sold for taxes as aforesaid; and whereas doubts have arisen as to whether such Deeds could be properly given under the said Act to such Assignees, and whether they should not in all cases have been made directly to the Purchasers from the Sheriffs, and it is expedient to remove such doubts: *Therefore, &c.*

1.—The Deed or Deeds made by any Sheriff who had sold lands for taxes under the above mentioned Act to the Assignee or Assignees of any Purchaser or Purchasers of such lands, shall be as valid and effectual to all intents and purposes as if the same had been made directly to the Purchaser or Purchasers of such lands, anything in the said recited Act to the contrary notwithstanding.

20 VIC.—CAP. 73.

An Act to provide for ascertaining unknown Boundaries in all cases in which the Concession Lines were not run in the original survey.

[Assented to 10th June, 1857.]

Preamble.

12 Vic. c. 35.

WHEREAS the division or side lines of the lots in certain townships in Upper Canada were drawn in the original survey, and the proprietors of the lands have taken possession, and have regulated their improvements by such division or side lines; And whereas under the provisions of the Act of 1849, intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of land surveyors and the survey of lands in this Province*, Surveyors in cases of dispute as to the boundaries of lots, are required, with the view of ascertaining such boundaries to measure the true distance along the concession line between the nearest

undisputed posts, limits or monuments, and to divide such distance into such number of lots as the same contained in the original survey; but whereas, owing to the incorrectness of the original surveys of the Townships aforesaid, such subdivision does not agree with the division or side lines drawn in the original survey, and consequently the disputed boundaries cannot be decided to the satisfaction of the parties interested, and it is therefore necessary to provide a remedy: *Therefore, &c.*

1.—Notwithstanding any thing contained in the Act before cited, or in any other Act, it shall be lawful for Provincial Land Surveyors, and they are hereby required, when called on to determine disputed boundaries in the said Townships, to ascertain and establish the division or side lines of the lots, by running such side lines as they were run in the original survey, whether the same were run from the front of the Concession to the rear, or the rear of the Concession to the front thereof, in the original survey, and to adhere to all posts, limits or monuments, planted on the division or side lines in the original survey, as being or designating corners of lots under such original survey.

How side lines may be drawn in Townships described in the Title.

2.—This Act shall be deemed a Public Act.

Public Act.

20 VIC.—CAP. 75.

An Act for the protection of persons owning Lands on the Shore of Lake Ontario in the Counties of York, Peel and Halton.

[Assented to 27th May, 1857.]

WHEREAS the owners of lands lying on the shore of Lake Ontario, in the Counties of York, Peel and Halton, have by their petitions to Parliament represented, that their property suffers great injury from parties removing stone from the shore up to the water's edge, by which means the banks are undermined and serious damage done to property thereon; *And whereas* it is expedient to prevent the abuse so complained of: *Therefore, &c.*

Preamble.

1.—No person shall remove or raise any stone from the bed of Lake Ontario at a less distance than three rods beyond low-water mark, at any place between the western limits of the City of Totonto and Burlington Beach in the County of Halton.

Stone not to be removed from the Beach in certain places.

2.—Any person removing or raising any stone in contravention of the next preceding section, may be arrested by the

Arrest and punishment of persons

contraven-
ing this Act.

owner of any land adjoining Lake Ontario within the limits aforesaid, in front of whose property any stone may be removed or his servant, or agent, or any person whom he shall call to his assistance, without any warrant other than the authority of this Act, and taken before one of the nearest Justices of the Peace, who, upon the complaint of the person arresting such offender, and upon conviction of the offender by the oath of such person or of any other credible witness, may condemn such offender to pay a fine not exceeding Five Pounds nor less than One Pound, and costs, and in default of immediate payment may commit such offender to the common gaol of the County or United Counties for any period not exceeding one month, unless the said fine and costs are sooner paid.

Punishment
of the Master
of any craft
allowing his
crew to re-
move stone
in contra-
vention of
this Act.

3.—If the master or other person in charge of any craft, shall permit his crew or any of them, to remove or raise any stone contrary to the provisions of this Act, or shall allow his crew to depart from the shore after committing any such offence, he shall thereby incur a fine not less than Two Pounds nor exceeding Ten Pounds, to be recovered with costs, before any Justice of the Peace having jurisdiction in any place where such master or person in charge shall be found, upon proof of the offence by the oath of one credible witness, and if the fine and costs are not forthwith paid, the offender may be committed to the Common Gaol of the County or place for a period not exceeding two months, unless the fine be sooner paid.

Application
of fines.

4.—All fines levied under this Act shall belong to the Municipality of the Township, Town or City in which the conviction shall be had, for the general uses thereof.

Act not to
prevent ga-
thering
stone for cer-
tain pur-
poses.

5.—The prohibition to remove or raise stone shall not apply to the owners of the land in front of which such stone shall lie, to be used for the purpose of constructing walls for the protection thereof.

Public Act.

6.—This Act shall be a Public Act.

20 VIC.—CAP. 76.

An Act to attach the new Townships of Galway, Cavendish and Anstruther to the County of Peterborough.

[Assented to 27th May, 1857.]

Preamble.

WHEREAS the rapid settlement of the new Townships of Galway, Cavendish and Anstruther now being surveyed and lying immediately in rear of the County of Peterborough, renders it necessary that the said Townships should be attached to the County of Peterborough: *Therefore, &c.*

1.—From and after the passing of this Act, the said Townships of Galway, Cavendish and Anstruther shall be attached to and form part of the said County of Peterborough for all purposes whatsoever.

The said Townships attached to Peterborough.

20 VIC.—CAP. 77.

An Act to explain the Act to separate the County of Bruce from the County of Huron.

[Assented to 27th May, 1857.]

WHEREAS doubts have arisen as to the true construction of the first section of the Act passed in the session held in the nineteenth and twentieth years of Her Majesty's Reign, intituled, *An Act to separate the County of Bruce from the County of Huron*, in reference to the proclamation for fixing the site for the County Town in the said County of Bruce: *For removing, &c.*

Preamble.

19 & 20 Vic. c. 19.

1.—The Governor in Council has had and shall have power to fix the site of the County Town for the County of Bruce in the same manner as he might have done under the provisions of the Act passed in the twelfth year of Her Majesty's Reign chapter seventy-eight, if the Provisional Municipal Council, for the County of Bruce, had been constituted under that Act; and the proclamations mentioned in the said first recited Act shall be held and taken to include the proclamation referred to in the Act last mentioned for fixing the County Town.

Governor in Council declared to have power to fix the County Town.

2.—This Act shall be deemed a Public Act.

Public Act.

20 VIC.—CAP. 78.

An Act to authorize the Provisional Municipal Council of the County of Bruce to take Stock in certain Railways.

[Assented to 10th June, 1857.]

WHEREAS under the existing statutory enactments respecting Provisional Municipal Councils, the Provisional Municipal Council of the County of Bruce have not power to pass By-laws for other than local purposes connected with the establishment of the said County, and the erection of public buildings in the same; *And whereas* the said Provisional Municipal Council of the said County of Bruce have by their Petition set forth that it would be highly conducive to the prosperity of the said County of Bruce forthwith to take Stock in the Stratford and Huron Railway Company, the Canada North-

Preamble.

West Railway Company, or any other Company which the said Council may deem best for the interests of the said County of Bruce, and that to delay the same until the same until the said Provisional Municipal Council are in process of time succeeded by the Municipal Council, would be prejudicial to and greatly retard the advancement of the said County, which their aiding in the accomplishment of undertakings of such vast importance would ensure, and have prayed to be authorized by law to pass a By-law or By-laws to take such stock and to issue Debentures in manner hereinafter mentioned; *And whereas* it is expedient to grant the prayer of the said petition: *Therefore, &c.*

The said Council may take £100,000 stock in the Railway.

1.—It shall and may be lawful for the Provisional Municipal Council of the County of Bruce for the time being, to pass a By-law or By-laws for subscribing for and taking stock to an amount not exceeding one hundred thousand pounds, in the said Stratford and Huron Railway Company, the Canada North-West Railway Company, or any other Company which the said Council may deem best for the said County of Bruce, and to issue debentures in sums of not less than twenty-five pounds each, and in the whole not exceeding the amount authorized by such By-law or By-laws, and to apply the same to the purpose for which such loan is hereby authorized; and the said Provisional Municipal Council shall have full power to impose and levy taxes on the assessable property in the said County for the purpose of paying the principal and interest of such debentures.

20 VIC.—CAP. 79.

An Act to legalize and make valid certain By-laws of the late Home District Council passed in reference to certain Roads in the County of Ontario.

[Assented to 10th June, 1857.]

Private Act.

20 VIC.—CAP. 80.

An Act to amend the Act conveying to the City of Toronto certain Water Lots, with power to the said City for the construction of an Esplanade, and to enable the said City to locate the Grand Trunk Railroad and other Railroads along the frontage of the said City.

[Assented to 10th June, 1857.]

Preamble.
16 Vic. c. 219,
cited.

WHEREAS under and by virtue of the Act sixteenth Victoria, chapter two hundred and nineteen, the Mayor, Aldermen

and Commonalty of the City of Toronto, have contracted with the Grand Trunk Railway of Canada, for the building and construction of an Esplanade in front of the said City, according to a certain plan to the said contract annexed, a copy of which plan has been filed and deposited in the office of the Commissioner of Crown Lands in this Province, and it has become necessary to grant further and other powers to the said the Mayor, Aldermen and Commonalty of the City of Toronto, to enable them to complete the said Esplanade, according to the said contract, and certain other work connected therewith: *Therefore, &c.*

1.—It shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, and for their contractors, workmen, servants and agents, to enter in and upon all lands and water lots, and to cross all wharves, docks, piers and premises lying within the limits of the said Esplanade, as laid down on the said plan annexed to the said contract, and take possession thereof, and use and occupy the same to the width of one hundred feet for the purposes of the said Esplanade, and to take down and remove all buildings and erections now being upon the said line of the said Esplanade, as laid down on the said plan so annexed to the said contract, and filed and deposited in the said office as aforesaid, and to locate the roadway of the said Grand Trunk Railway and other Railways to the width of forty feet thereon, as shewn on the said plan, doing no unnecessary damage and interfering with and interrupting the approach to and the use of the said wharves, docks and piers upon any of the water lots crossed for the purpose of the said Esplanade as little as possible; *Provided always*, that nothing in this or any previous Act contained, shall prevent the said Mayor, Aldermen and Commonalty of the City of Toronto, and the several Railway Companies interested therein, by and with the consent of the Governor in Council, within two years from the passing of this Act, from locating the different lines of the said Railways along the frontage of the said City, in such manner between the said forty feet mentioned in the said contract and according to the said plan, and the south side of Front Street from the Queen's Wharf to Yonge Street in the said City, as shall be most conducive to the public interests.

The Corporation of Toronto may enter upon and take lands to a certain extent for the Esplanade.

Doing no unnecessary damage.

Proviso: Act not to prevent the locating of the Railway in a certain manner.

2.—It shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, to contract with the said Grand Trunk Railway Company of Canada, or any person or persons, company or Companies forthwith (and during the construction of the said Esplanade under the said con-

The said Corporation may contract for filling the whole space from the northern

limit of the Esplanade to the Bay, and enter upon property for purpose of filling up the said space.

How the cost of filling shall be paid.

Proviso: mode of ascertaining the share of the cost to be paid by each party interested.

Arbitration in case of non-agreement.

tract), to fill up and grade to the level of the said Esplanade, as laid down on the said plan, the whole space lying between the northern limit of the said Esplanade as laid down on the said plan annexed to the said contract, and now in the course of construction, and the present shore of the Bay of Toronto, and extending from the said Esplanade eastward to Cherry street, and westward to the Queen's Wharf, and to enter in and upon and pass over and along all the water lots in front of the said City for that purpose, interfering with and interrupting the approach to all wharves, docks and piers, and the enjoyment of the same, by their respective owners and occupiers as little as possible; and the expenses of filling up and grading the same, shall be ascertained in manner hereinafter mentioned, and shall be repaid to the said Mayor, Aldermen and Commonalty of the City of Toronto, by the owners and other persons having estates in the land on which such grading, levelling and filling in shall be done, such persons being charged in an equitable proportion according to the nature and extent of their estate in the said lands, and any contract or contracts for the like purpose that may heretofore and before the passing of this Act have been entered into by the Mayor of the said City of Toronto, on the behalf of the said city, under the sanction and authority of any resolution of the Common Council of the said city, shall be legal, valid and binding on all parties named in the said contract, and shall be taken and considered for all intents, purposes and uses whatsoever, as a contract made under the authority and provisions of this Act; *Provided always*, that the amount to be paid to the city for the said filling in, grading and levelling of such vacant space, shall be ascertained in the first instance by the City Surveyor, in manner as provided in the said Act in respect to the said Esplanade, and all sums to be paid to the owners of water lots in fee, their assignees, lessees or representatives, in respect of the land or lands covered with water taken by the said Mayor, Aldermen and Commonalty of the City of Toronto, for the purposes of the said Esplanade, as well as the amounts to be paid to the said Mayor, Aldermen and Commonalty of the City of Toronto, by the lessees or occupants of the water lots belonging to the City of Toronto for the construction of the said Esplanade, or by any party or parties whomsoever, for the filling up, grading and levelling of the said space north of the Esplanade hereinbefore mentioned, and if the same cannot be agreed upon and adjusted between the said parties interested therein, shall be ascertained and settled by arbitration, in the same manner as is provided in other cases by the said recited Act, and every arbitrator appointed under the said recited Act or this Act,

shall, before entering upon the duties of his said office, be sworn before one of the Judges of the Superior Courts of this Province, well, truly and faithfully, and without partiality to fulfil the duties thereof to the best of his judgment.

3.—For and notwithstanding any Act of the Parliament of this Province, or any clause, matter or thing therein contained to the contrary, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Toronto, forthwith and without further notice or other proceeding, to pass a By-law to raise a Loan for such an amount, not exceeding seventy-five thousand pounds, as may be necessary for the purpose of filling in, grading and levelling the said space between the north line of the Esplanade and the shore of the Bay, and the extensions thereof as aforesaid, and to issue any number of Debentures payable in this Province or elsewhere, in sums of not less than one hundred pounds, which may be requisite and necessary therefor, payable in twenty years from the respective dates thereof, and for the purpose of redeeming the same and paying the interest thereon, a special rate may be imposed as provided in the Act hereinbefore mentioned, and shall be applied in payment of interest and in forming a sinking fund for principal in like manner as therein provided.

The said Corporation may forthwith borrow money for defraying the cost of the said filling.

4.—*And whereas* the property directed by the Letters Patent of the twenty-first February, one thousand eight hundred and forty, mentioned in the said Act, to be conveyed to the said water lot owners therein referred to, was intended as a compensation for the land which might be taken from them respectively for the Esplanade, and for the expense of making so much thereof as should be made on the lands taken from them respectively: *Be it, &c.*, that the owners be respectively charged with their respective shares of such expense; and if any such water lot owner or person having estate in any such water lot, shall be dissatisfied with any such compensation, his claim to a further allowance shall, if not agreed upon, be determined by arbitration as aforesaid, and in coming to such decision, the said Arbitrators shall take into consideration the increased value of the lots by means of the improvements contemplated by this Act, as well as all other matters connected therewith, and also the value of the strips of land between the same and the top of the bank, and of the land covered with water in front thereof to be conveyed to the owners in fee of the said water lots under the provisions of the Act first above mentioned, and if such increased value of the said water lots and the value of the said strips of land and portions of land covered with water, together with the expense of construction

Recital.

Appeal to arbitration from parties dissatisfied : as to compensation for land taken from them.

Increased value, &c., to be taken into consideration.

Excess of value may be awarded to the City.

the said Esplanade, shall equal the value of the land taken for the Esplanade, it shall be the duty of the Arbitrators to decide in favor of the city generally, and if it shall exceed the value of the land taken, then to decide that such excess shall be paid to the city by the said water lot owners in manner provided by the said Act hereinbefore mentioned, for payments to the city for the construction of the said Esplanade; *Provided always*, that nothing in this section contained, shall affect the right, if any, of any party who may claim any strip of land covered by water or otherwise, adjoining the water lots granted by any patent issued prior to the said twenty first day of February, one thousand eight hundred and forty, but the rights of such party, if any, to such strips of land shall remain the same as before the passing of this Act.

Proviso: Act not to affect certain rights.

As to payment of sums coming to the said Corporation from owners of water lots.

5.—All sums of money ordered to be paid by the said Mayor, Aldermen and Commonalty of the City of Toronto, to the owners of the said water lots in fee, shall be paid within one year from the date of the decision of the said Arbitrators, or from the date of any rule of Court ordering the same, with interest, and the sum to be paid to the Mayor, Aldermen and Commonalty of the City of Toronto, by the lessees of water lots belonging to the said City of Toronto, and by all parties whomsoever, for the filling up, grading and levelling between the Esplanade and the shore of the Bay, shall be a charge upon the lands in respect to which the same is payable, in the manner provided as to the Esplanade by the first mentioned Act, from the time a certificate of the said decision of the said Arbitrators signed by them, or a certificate of a rule on any appeal under the seal of the Court from whence it issues, shall be registered in the Registry Office of the County of York, for the purpose of which registry no other proof shall be required than proof by affidavit of the handwriting of the said Arbitrators, or the seal of the said Court; and such moneys last mentioned shall be payable and recoverable if not paid, in the manner provided for in the Act first above mentioned, and shall be applied as by the said Act is also directed.

The said Corporation may lease or sell a certain strip of land, notwithstanding any condition in the patent granting it.

6.—For and notwithstanding any matter or thing contained in the Patent from the Crown, dated the fourteenth day of July, one thousand eight hundred and eighteen, mentioned in the eighth section of the Act hereinbefore referred to, it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Toronto, to lease for any term or terms of years, or to agree for the sale of and absolutely to sell and dispose of the space or strip of land in the said patent and section of the said Act described, freed and discharged from

any and all of the said trusts, conditions and restrictions in the said Patent contained; and all moneys received therefor, whether by way of rent or otherwise, shall be carried to a special account by the Chamberlain of the City of Toronto, and shall be expended by the said Mayor, Aldermen and Commonalty of the City of Toronto, in the purchase, planting, ornamenting and care of some other piece or parcel of land to be held by the said Mayor, Aldermen and Commonalty of the City of Toronto, upon similar trusts as are in the said patent contained and set forth.

Application
of moneys
arising
therefrom.

7.—*Provided always*, that nothing in this Act contained shall apply to or affect any of the lands or property formerly vested in the principal Officers of Her Majesty's Ordnance and referred to in the Act passed in the nineteenth year of Her Majesty's Reign, chaptered forty-five, or any lands or property of Her Majesty, nor shall any of the powers herein given to the Mayor, Aldermen and Commonalty of the City of Toronto, be construed as in any way applying thereto.

Act not to
affect lands
formerly
vested in the
Ordnance
Department.

8.—This Act shall be taken to be a Public Act.

Public Act.

20 VIC.—CAP. 81

An Act to authorize the City of Toronto to erect Water Works, and to levy a water rate:

[Assented to 10th June, 1857.]

20 VIC.—CAP. 82.

An Act to enable the City Council of the City of London, to sell and convey certain land in the City of London, called the Potter's Field.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 83.

An Act to authorize the City of Hamilton to negotiate a Loan of Fifty Thousand Pounds.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 84.

An Act to amend the Act intituled, An Act for the Construction of Water Works in the City of Hamilton.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 85.

An Act to consolidate the debt of the City of Ottawa.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS the Corporation of the City of Ottawa have petitioned to be authorized by law to borrow on the debentures of the said City a sum not exceeding thirty thousand pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer of the said petition should be granted : *Therefore, &c.*

Ottawa may
raise a loan
of £30,000.

1.—It shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the City of Ottawa to raise by way of loan upon the credit of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, either in this Province or in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding the sum of thirty thousand pounds of lawful money of Canada.

Debentures
may be
issued for
such loan.

2.—It shall and may be lawful for the Mayor of the said City of Ottawa, from time to time, to cause to be issued debentures of the said City under the Corporation seal, signed by the Mayor and countersigned by the Chamberlain of the said City for the time being, in such sums not exceeding in the whole the said sum of thirty thousand pounds, as the Common Council shall direct and appoint; and the principal sum secured by the said debentures and the interest accruing thereon, shall be made payable either in this Province, in Great Britain or elsewhere, as the said Common Council shall deem expedient or necessary.

Form of
Debentures,
&c.

Application
of the mo-
neys so
raised to pay
present
debts of the
City.

3.—So much of the said loan so to be raised as aforesaid as shall be necessary for the purpose, shall be applied by the said Mayor, Aldermen and Commonalty of the said City of Ottawa, in the redemption of the debentures outstanding for stock in the Ottawa and Prescott Railway Company as per By-law number seventy-nine of the late Town Council of the late Town of Bytown, now the said City of Ottawa, amounting to about fourteen thousand pounds;—for fire engines, &c., as per By-law number eighty-four of the said late Town Council, amounting to about two thousand pounds;—for market lots as per By-law number ninety-seven of the said late Town Council, amounting to about two thousand pounds;—for certain improvements as per By-law number one hundred and two of the said late Town Council, amounting to about two thousand

pounds ;—for certain other improvements as per By-law number one hundred and eighteen of the said late Town Council, amounting to about five thousand pounds ;—and the remainder of the said loan shall be applied in aid of any public improvements now or hereafter to be erected or constructed in the said City. And the Chamberlain of the said City is hereby authorized and empowered, on receiving instruction so to do from the City Council, to call in such debentures of the said City as may have heretofore been issued by virtue of the aforesaid By-laws or either of them, and to substitute therefor debentures to be issued under this Act.

Remainder.

Chamberlain may call in outstanding Debentures.

4.—For the payment satisfaction and discharge of the debentures to be issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City of Ottawa, and they are hereby required, to impose a special rate per annum, (over and above and in addition to all other rates to be levied in each year, and over and above the interest to be payable on such debentures,) which shall be sufficient to form a sinking fund of two per cent. per annum for that purpose.

Special rate to be imposed to form a Sinking Fund.

5.—It shall be the duty of the Chamberlain of the said City of Ottawa, from time to time, to invest all sums of money raised by special rate for the sinking fund provided in this Act, either in the debentures provided for by this Act, or in any debentures issued by the Government of Canada, or in such other securities as the Governor of this Province shall by Order in Council direct or appoint, and to apply all dividends or interest on the said sinking fund to the extinction of the debts created by this Act.

Investment and application of the Sinking Fund.

6.—For and notwithstanding any provision, clause, matter or thing contained in any Act of Parliament of this Province to the contrary, it shall and may be lawful for the Common Council of the said City of Ottawa, after having called in and paid the debentures described in this Act, to repeal the By-laws of the said Council or of the Council of the late Town of Bytown, authorizing the levying of special rates for the purpose of paying and satisfying the said debentures.

When the Debentures under By-laws of Bytown are paid, the By-laws may be repealed.

7.—The provisions of the Statute of this Province, passed in the eighteenth year of Her Majesty's Reign, chaptered one hundred and thirty-three, and intituled, *An Act to require that all By-laws of City, Town, Village or Township Councils in Upper Canada, for raising money upon the Credit of such City, Town, Village or Township Corporations, shall be approved by a majority of the Municipal Electors, before they*

By-laws under this Act need not be submitted to electors, notwithstanding 18 Vic. c. 133.

come into force, shall not apply to this Act, or to any By-law or By-laws to be passed under the authority thereof.

Public Act.

8.—This Act shall be deemed a Public Act.

20 VIC.—CAP. 87.

An Act to empower the Town Council of Goderich to apply to certain purposes an unexpended balance of money raised for other purposes.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 88.

An Act to confirm a Conveyance made by the Municipal Council of the Town of Goderich of a portion of the Market Square of the said Town to the Municipal Council of the United Counties of Huron and Bruce.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 89.

An Act to incorporate the Town of Bowmanville, and to define the limits thereof.

[Assented to 27th May, 1857.]

Town of
Bowmanville
constituted.

1.—The tract of land within the boundaries or limits of the present Village of Bowmanville, shall, upon, from and after the first day of January, in the year of our Lord one thousand eight hundred and fifty-eight, be incorporated into a Town, to be called and designated as the Town of Bowmanville.

Wards.

3.—The said Town of Bowmanville shall be divided into three Wards, to be called respectively the West Ward, South Ward, and North Ward.

West Ward,
how bound-
ed.

1. The said West Ward shall be bounded as follows, that is to say: Commencing at the north-west angle of the said town; thence, in a southerly direction along the boundary, to the base line road; thence, easterly along the base line road until it intersects the allowance for road between lots numbers twelve and thirteen, late of the Township of Darlington; thence, northerly along the said allowance for road until it intersects Queen Street; thence, easterly along the centre of Queen Street until it intersects Temperance Street; thence, northerly along the centre of Temperance Street until it intersects Wellington Street; thence, westerly along the centre of Wellington

Street until it intersects the street east of and next to the building occupied as a public school house; thence, northerly along the centre of the said street to the concession line between the first and second concessions; thence, easterly along the said concession line to the junction of High Street; thence, northerly along the centre of High Street and the division between lots numbers eleven and twelve, late of the Township of Darlington, to the northern boundary of the Town; thence, westerly along the northern boundary, to the place of beginning.

2. The said South Ward shall be bounded as follows, that is to say: Commencing where King Street intersects Ontario Street; thence, southerly along the centre of Ontario Street to where it intersects Queen Street; thence, in a westerly direction along the centre of Queen Street to its junction with Scugog Street; thence, in a southerly direction along the allowance for road between lots numbers twelve and thirteen, late of the Township of Darlington, to the base line road; thence, easterly along the base line road to the division between lots numbers eleven and twelve; thence, in a southerly direction along the said division to the Lake shore or southern boundary; thence, in an easterly direction along the Lake shore to the division between lots numbers eight and nine; thence, northerly along the said division to the base line road; thence, easterly along that road to the eastern boundary of the Town; thence, northerly along the said boundary to King Street; thence, westerly along the centre of King Street, to the place of beginning.

South Ward,
how bound-
ed.

3. The said North Ward shall be bounded as follows, that is to say: Commencing where Ontario Street intersects King Street; thence, easterly along the centre of King Street to the boundary of the Town; thence, northerly along that boundary to the north-east angle of the Town; thence, westerly along the northern boundary of the Town to the division line between lots numbers eleven and twelve, late of the Township of Darlington; thence, southerly along the said division line to High Street; thence, in the same direction along the centre of High Street until it intersects the line of road between the first and second Concessions; thence, westerly along the said road to its junction with Silver Street; thence, southerly along the eastern boundary of West Ward until Silver Street intersects Wellington Street; thence, along the centre of Wellington Street until it intersects Temperance Street; thence, southerly along the centre of Temperance Street to Queen Street; thence, easterly along the centre of Queen Street to Ontario Street; thence, northerly along Ontario Street, to the place of beginning.

North Ward,
how bound-
ed.

20 VIC.—CAP. 90

An Act to authorize the Town of St. Catharines to negotiate a loan of forty-five thousand two hundred and forty-eight pounds, to consolidate the debt of the Town, and for other purposes.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 91.

An Act for the construction of Water Works in the Town of Saint Catharines.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 92.

An Act to incorporate the Town of Milton, in the County of Halton.

[Assented to 27th May, 1857.]

Milton to be
an incorpo-
rated Town.

1.—From and after the passing of this Act the inhabitants of the Town of Milton shall be a body corporate apart from the Township of Trafalgar, in which the said Town is situate, and as such shall have perpetual succession and a Common Seal, with such powers as are now by law conferred upon Incorporated Towns in Upper Canada; and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Town of Milton.

Boundaries
of the Town.

2.—The said Town of Milton shall comprise and consist of the following lots and parcels of land, that is to say: Lots numbers thirteen and fourteen in the second Concession in the new survey of the Township of Trafalgar.

Division into
Wards.

3.—The said Town of Milton shall be divided into three Wards in the manner following, that is to say:

North Ward.

North Ward shall comprise all that part of the said Town north of the centre line of Main street, from the eastern to the western boundaries of the said Town.

East Ward.

East Ward shall comprise all that part of the said Town south of the centre line of Main street, and east of the centre line of Foster street, prolonged to the southern boundary of the said Town.

South Ward.

South Ward shall comprise all that part of the said Town lying south of the centre line of Main street, and west of the centre line of Foster street, prolonged to the southern boundary of the said Town.

20 VIC.—CAP. 93.

An Act to incorporate the Town of Oakville.

[Assented to 27th May, 1857.]

1.—From and after the passing of this Act, the inhabitants of the Town of Oakville shall be a body corporate apart from the Township of Trafalgar in which the said Town is situate, and as such shall have perpetual succession and a Common Seal, with such powers as are now by law conferred upon Incorporated Towns in Upper Canada; and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Town of Oakville.

Oakville to
be an incor-
porated
Town.

2.—The said Town of Oakville shall comprise and consist of the following lots and parcels of land, that is to say: Lots numbers twelve, thirteen, fourteen, fifteen and sixteen, and the gore adjoining lot sixteen in the third concession of Trafalgar, and lots eleven, twelve, thirteen, fourteen, fifteen, sixteen and the gore, and lot seventeen in the broken front or fourth concession of the said Township of Trafalgar.

Boundaries
of the Town.

3.—The said Town of Oakville shall be divided into three Wards in the manner following, that is to say:

Division into
Wards.

Ward number one shall comprise all that portion of the Town west of Navy street, with the entire portion lying on the west side of the Sixteen Mile Creek.

Ward
No. One.

Ward number two shall comprise all that portion of the Town east of Navy Street and south of Colborne Street.

Ward
No. Two.

Ward number three shall comprise all that portion of the Town east of Navy street and north of Colborne street.

Ward
No. Three.

20 VIC.—CAP. 94.

An Act to incorporate the Town of Sandwich, in the County of Essex.

[Assented to 10th June, 1857.]

1.—The town plot or tract of land to be known as the Town of Sandwich, shall hereafter be extended, and shall be and lie within the boundaries mentioned in the Schedule A to this Act, and shall, upon, from and after the first day of January, in the year of our Lord one thousand eight hundred and fifty-eight, be called and known as the Town of Sandwich, and the inhabitants thereof shall be incorporated with the rights, powers and privileges of an incorporated town; *Provided always*, that this Act shall not affect the rights of the Sandwich and Windsor Gravel Road Company.

Town of
Sandwich in-
corporated.

Proviso.

Five Councillors to form the Town Council.

3.—The said Town of Sandwich shall not be divided into Wards, but the whole of it shall be considered as one Ward, and shall be represented by five Councillors, who shall form the Town Council thereof.

SCHEDULE A.

BOUNDARIES OF THE TOWN OF SANDWICH.

Commencing at the water's edge of the River Detroit on the limits between lots numbers fifty-seven and fifty-eight, in the Front Concession of the Township of Sandwich; thence, on a course south, seventy-four degrees east, to the eastern side of the second concession road; then, north, following the course of the said concession road on the eastern limit thereof, until it intersects the northerly limits of lot number fifty-nine; then, south, seventy-four degrees east until it intersects the northerly limits of the Huron Church Road; then, north, twenty-eight degrees west along the northern side of the said Huron Church Road, to the south-easterly side of the second concession road L'Assomption; then, along the said south-easterly side of the said concession road, to the limits between lots numbers sixty-seven and sixty-eight; then, across said concession road and following the limits between lots numbers sixty-seven and sixty-eight on a course north twenty-eight degrees west, to the edge of the River Detroit; thence, continuing the last mentioned course until it shall reach the Channel Bank of the River Detroit; then, following the stream along the said Channel Bank until the same shall intersect a line produced from the place of beginning on a course north seventy-four degrees west; then, on a course south seventy-four degrees east, to the place of beginning.

20 VIC.—CAP. 95.

An Act to incorporate the Town of Lindsay and define the Limits thereof.

[Assented to 10th June, 1857.]

Town of Lindsay incorporated.

1.—From and after the passing of this Act the inhabitants of the Town of Lindsay shall be a body corporate apart from the Township of Ops, in which the said Town is situated, and as such shall have perpetual succession and a common seal, with such powers as are now by law conferred upon Incorporated Towns in Upper Canada, and the powers of such Corporation shall be exercised by and through, and in the name of the Municipality of the Town of Lindsay.

2.—The said Town of Lindsay shall be comprised within the following limits or boundaries, that is to say: The present Town and Park Lots as laid out by the Government, and lots numbers nineteen and twenty-two in the fifth concession, and lots numbers nineteen, twenty, twenty-one and twenty-two, in the sixth concession of the aforesaid Township of Ops.

Limits of the said Town.

3.—The said Town of Lindsay shall be divided into three Wards, to be known as the North Ward, South Ward, and East Ward respectively. The North Ward shall consist of all that part of the Town, north of the centre line of Peel Street, and west of the centre line of the boundary or concession line, between the fifth and sixth concessions of the said Township of Ops: The South Ward shall consist of all that part of the Town south of the centre line of Peel Street, and west of the centre line of the boundary or concession line between the fifth and sixth concessions of the said Township of Ops: And the East Ward shall consist of all that part of the Town east of the centre of the aforesaid boundary or concession line, between the fifth and sixth concessions of the said Township of Ops.

Number and Boundaries of Wards.
North Ward.

South Ward.

East Ward.

20 VIC. CAP 96.

An Act to Incorporate the Town of Collingwood.

[Assented to 10th June, 1857.]

1.—From and after the First day of January, in the year of our Lord one thousand eight hundred and fifty-eight, the inhabitants of the Town of Collingwood shall be a body corporate apart from the Township of Nottawasaga in which the said Town is situate, and as such shall have perpetual succession and a common Seal, with such powers as are now by law conferred upon incorporated Towns in general, and as if the said Town had been mentioned and included in the Schedule B annexed to the Upper Canada Municipal Corporations Act, 1849, and with the rights, powers and privileges which shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns in general, and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of Collingwood as fully as if the said Town had been contained in the said Schedule B, with the exception hereinafter made as regards the first election.

Collingwood incorporated as a Town from 1st January, 1858.

Provisions of U. C. Municipal Corporations Acts to apply to it.

Boundaries
of the Town.

2.—The said Town of Collingwood shall comprise and consist of all that part of the Township of Nottawasaga, in the County of Simcoe, which is bounded as follows, that is to say: commencing where the side line of lots forty and forty-one in the sixth concession of the said Township, strikes the five feet water line on the Georgian Bay, Lake Huron; thence, south-westerly along the said side line, and the side lines of lots forty and forty-one in the seventh, eighth, ninth and tenth concessions to where the side line of lots forty and forty-one in the eleventh concession strikes the tenth and eleventh concession line; thence, northerly down the west side of the said concession line, to the south side of the mountain road; thence, westerly along the south side of the mountain road to the centre of the Town line between the Township of Collingwood and the said Township of Nottawasaga; thence, northerly along the centre of the said Town line to the five feet water line, as granted by the Crown in Deeds to private individuals across the front of Collingwood Harbour, to the place of beginning.

Division into
Wards.

3.—The said Town of Collingwood shall be divided into three Wards in the manner following, that is to say: Centre Ward, East Ward and West Ward, and the said Wards shall be bounded as follows: Centre Ward shall consist of that portion of the said Town of Collingwood bounded on the south by the side line of lots forty and forty-one, on the north by the five feet water line, and bounded on the east by the centre of the Railroad track, on the west by the centre of Maple street; the East Ward to be composed of all that portion within the limits of the said Town to the east of the centre of the Railroad track; and the West Ward to be composed of that portion of the said Town within the limits of the said Town to the west of the centre of Maple street.

Centre Ward.

East Ward.

West Ward.

20 VIC.—CAP. 97.

An Act to Incorporate the Town of Windsor, and to divide the same into Wards, and to define the limits thereof.

[Assented to 10th June, 1857.]

Village of
Windsor in-
corporated
as a Town
after 1st Jan-
uary, 1858.

Provisions of
U. C. Muni-
cipal Corpo-

1.—The Village of Windsor as described and defined by limits under the Royal Proclamation, bearing date the twenty-eighth day of September, one thousand eight hundred and fifty-three, shall, upon, from and after the first day of January, in the year of our Lord one thousand eight hundred and fifty-eight, be incorporated as a Town, with the rights, powers and privileges of incorporated Towns in general, and as if the said

Town had been mentioned and included in the Schedule B, annexed to the Upper Canada Municipal Corporations Act of 1849, and with the rights, powers and privileges which shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns in general, and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of Windsor as fully as if the said Town had been contained in the said Schedule B, with the exception hereinafter made as regards the first election.

2.—The said Town of Windsor shall be divided into three Wards, in the manner described in the Schedule to this Act ; and to be named respectively First Ward, Second Ward and Third Ward.

ratations Acts
to apply to
it.

Division into
Wards.

SCHEDULE.

WARDS OF THE TOWN OF WINDSOR.

The First Ward shall comprise all that part of the said Town known as lots seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine and eighty, according to Mr. Niff's numbers, in the first concession of the Township of Sandwich, extending the same respectively to the water's edge of the River Detroit, together with so much of the water of the said River, and of the land under the said water, as lies in front of the said lots and extends to the channel bank of the River Detroit.

The Second Ward shall comprise all that part of the said Town known as lots eighty-one and eighty-two (or the Ouellette Farm), eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven, according to Mr. Niff's numbers, in the first concession of the Township of Sandwich, extending the same respectively to the water's edge of the River Detroit, together with so much of the water of the said River, and of the land under the said water, as lies in front of the said lots, and extends to the channel bank of the River Detroit.

The Third Ward shall comprise all that part of the said Town known as lots eighty-eight, eighty-nine, ninety, ninety-one, ninety-two and ninety-three, according to Mr. Niff's numbers, in the first concession of the Township of Sandwich, extending the same respectively to the water's edge of the River Detroit, together with so much of the water of the said River, and of the land under the said water, as lies in front of the said lots and extends to the channel bank of the River Detroit.

20 VIC.—CAP. 98.

An Act to Incorporate the Village of Bradford in the County of Simcoe.

[Assented to 27th May, 1857.]

Village incorporated after 1st January, 1858.

1.—The tract of land lying within the boundaries herein after mentioned, shall, upon, from, and after the first day of January, in the year one thousand eight hundred and fifty-eight, be incorporated as, and shall be a Village, to be called and designated as the Village of Bradford.

Boundaries of the Village.

3.—The said Village of Bradford shall consist of all that part of the Township of West Gwillimbury, in the County of Simcoe, which is bounded as follows, that is to say: commencing at the point of intersection of the Western bank of the Holland River with the southern limit of the sixth concession of the said Township; then West along the said southern limit to the Western limit of lot fourteen in the sixth concession aforesaid; then North along the said Western limit across the sixth and seventh concessions to the Northern limit of the said seventh concession; then East along the said Northern limit to the West bank of the Holland River; then South along the said West bank, to the place of beginning.

20 VIC.—CAP. 99.

An Act to amend an Act intituled "An Act to Incorporate the Village of Kemptville," and to legalize the late election for Village Councillors held thereunder.

[Assented to 27th May, 1857.]

Reeve of Kemptville entitled to sit in the County Council.

2.—The Reeve elected and appointed at the first meeting of the said Councillors to represent the said Municipality of the Village of Kemptville, in the Municipal Council of the United Counties of Leeds and Grenville, is and shall be entitled to sit and act as a member of the said Municipal Council upon producing the certificate of having taken the oath of qualification as in the next preceding clause mentioned, and is and shall be entitled to act as Reeve for the said Village of Kemptville in every respect, in the same manner as if the said certificate had actually been given, and he had taken and subscribed the oath of qualification therein required, at the time and in the manner required by law.

Kemptville to have its fair proportion of cer-

3.—The said Municipality shall be entitled to receive, and it shall be the duty of the Municipality of the Township of Oxford from time to time, to transfer and deliver to the said

Municipality of the Village of Kemptville, stock or scrip for stock in the Ottawa and Prescott Railway Company, to the extent of any sum or sums of money that the said Municipality of the Village of Kemptville may pay as its proportion of the debt due by the said Municipality of the Township of Oxford, for stock subscribed in the said Railway Company.

tain Railway
Stock or
Scrip.

20 VIC.—CAP. 100.

An Act to Incorporate the Village of Clinton.

[Assented to 27th May, 1857.]

1.—Upon, from, and after the first day of January, one thousand eight hundred and fifty-eight, the inhabitants of the Village of Clinton comprised within the boundaries hereinafter named, shall be a body corporate apart from the Townships in which the said Village is situate, and as such shall have perpetual succession and a Common Seal, with such powers as now by law are conferred upon Incorporated Villages in Upper Canada; and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Village of Clinton.

Clinton in-
corporated
as a Village
from 1st Jan-
uary, 1858.

Corporate
powers.

SCHEDULE.

BOUNDARIES OF THE VILLAGE OF CLINTON.

The said Village of Clinton shall include and consist of the following lots or parcels of land, that is to say: Lots numbers forty-two, forty-three and forty-four in the first concession of the Huron Road, in the Township of Tuckersmith; Lots numbers twenty-three and twenty-four in the first concession of the Township of Hullett; Lots numbers one, two, twenty-three and twenty-four in the Huron Road concession of the Township of Goderich, and lot number fifty in the Bayfield concession in the said Township of Goderich.

20 VIC.—CAP. 101.

An Act to Incorporate the Village of Iroquois, in the County of Dundas.

[Assented to 27th May, 1857.]

1.—From and after the passing of this Act, the inhabitants of the said Village of Iroquois shall be a body corporate apart from the Township of Matilda in which the said Village is situate; and as such shall have perpetual succession and a

Iroquois in-
corporated
as a Village.

Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Village of Iroquois.

Boundaries
of the Vil-
lage.

2.—The said Village of Iroquois shall comprise and consist of the following lots and parcels of lands, that is to say : Lots twenty-one, twenty-two, twenty-three and twenty-four, in the first concession Township of Matilda, in the County of Dundas, reckoned from the Eastern boundary of that Township.

20 VIC.—CAP. 102.

An Act to Incorporate the Village of Newmarket.

[Assented to 27th May, 1857.]

Newmarket
incorporated
as a Village
from 1st Jan-
uary, 1858.

1.—Upon, from and after the first day of January, one thousand eight hundred and fifty-eight, the inhabitants of the Village of Newmarket comprised within the boundaries in the Schedule to this Act named, shall be a body corporate, apart from the Townships in which the said Village is situate, and as such shall have perpetual succession and a Common Seal, with such powers as are now by law conferred upon Incorporated Villages in Upper Canada; and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Village of Newmarket.

Taxes in the
Village lim-
ited.

5.—It shall not be lawful for the Municipal Council of the said Village to levy, in any one year upon the ratable property of the said Village, for the local purposes of the said Village, except for School purposes, a higher rate than one shilling in the pound on the annual value of the said property, as shewn by the Assessment Roll.

SCHEDULE.

BOUNDARIES OF THE VILLAGE OF NEWMARKET.

The said Village of Newmarket shall consist of all that part of the County of York which is bounded as follows, that is to say : commencing in the centre of the first concession of the Township of Whitchurch, on the northern boundary of lot number ninety-five, on the east side of Yonge Street; then, southerly, along the centre of the said first concession, to the southern limit of lot number ninety-two, in the said first concession; then, easterly, along the said southern limit of the said lot ninety-two, to the south-east angle of said lot; then,

in a direct line, to the south-west angle of lot number thirty-two, in the second concession of the said Township of Whitechurch; thence, easterly, along the southern limit of said lot thirty-two, to the centre of the said second concession; thence, northerly, along the centre of the said concession to the northern limit of the allowance for road between the Townships of Whitechurch and East Gwillimbury; thence, westerly, along the northern limit of the said allowance for road to the south-west angle of lot number one, in the second concession of the said Township of East Gwillimbury; then, northerly, along the eastern limit of the allowance for road in front of the second concession of East Gwillimbury, three chains fifty links, more or less, to a point directly east of the north-easterly angle of that part of lot number ninety-six, in the first concession of the said Township of East Gwillimbury, belonging to George Lount, Esquire, of the Town of Barrie, County of Simcoe; then westerly, crossing the allowance for road last mentioned, along the northern limit of that part of said lot ninety-six, now and lately belonging to the said George Lount, Esquire, to the centre of the said first concession of East Gwillimbury; thence, southerly, along the centre of the said first concession to the southern limit of the said lot number ninety-six; then, crossing the allowance for road between the said lots number ninety-six and ninety-five, in a direct line, to the place of beginning.

20 VIC.—CAP. 103.

An Act to Incorporate the Village of Waterloo, in the County of Waterloo.

[Assented to 27th May, 1857.]

1.—From and after the passing of this Act, the inhabitants of the said Village of Waterloo shall be a body corporate apart from the Township of Waterloo in which the said Village is situate; and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Village of Waterloo.

Waterloo
incorporated
as a Village.

2.—The said Village shall comprise and consist of the following lots and parcels of land, that is to say: the north-west quarter of lot number four, the west halves of lots five and six, lots numbers thirteen and fourteen, the north halves of

Boundaries
of the Vil-
lage.

lots numbers fifteen and twenty-two, and lots numbers twenty-three and twenty-four, on the tract known as the German Company Tract in the upper block of the said Township of Waterloo.

Recital.

Berlin and Waterloo may be united as one Town by Proclamation, upon petition of the Councils of both.

Effect of such union.

16.—And whereas from the contiguity of the Town of Berlin and the said Village of Waterloo to each other, the inhabitants of the said Town and Village may hereafter desire to have the said places united, so as to form one Corporation: *Be it, &c.*, that whenever the Councils of the said Town and Village shall join in a Petition to the Governor of this Province, praying that such union as one Corporation may take place, it shall and may be lawful for the said Governor by an Order in Council to issue a Proclamation under the Great Seal of this Province, erecting the said Town and Village into an Incorporated Town, by a name to be given in or by such Proclamation, and to set forth the boundaries thereof; and from and after the first day of January then next, the said Town and the said Village shall form one Corporation, with the name so to be given in the said Proclamation, and thenceforth all and every of the provisions of the Municipal Laws of Upper Canada, relating to incorporated Towns, shall apply to the said united Corporation.

20 VIC.—CAP. 104.

An Act to Incorporate the Village of Fort Erie, in the County of Welland.

[Assented to 10th June, 1857.]

Fort Erie incorporated as a Village.

1.—From and after the passing of this Act, the Inhabitants of the said Village of Fort Erie shall be a body corporate apart from the Township of Bertie in which the said Village is situate, and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Village of Fort Erie.

Boundaries of the Village.

2.—The said Village shall comprise and consist of the tract of land bounded as follows, that is to say: commencing at the Niagara River on a line with the south-east angle of lot number five, in the first Concession of the said Township of Bertie, and running thence westerly along the southern boundary line of the said lot, to the south-east angle of lot number five in the second Concession of the said Township; thence south,

until the line strikes the shore of Lake Erie; thence along the shore of Lake Erie, and of the said River, to the place of beginning.

20 VIC.—CAP. 105.

An Act to Incorporate the Village of New Hamburg, in the County of Waterloo.

[Assented to 10th June, 1857.]

1.—From and after the first day of January next, the inhabitants of the said Village of New Hamburg shall be a body corporate apart from the Township of Wilmot in which the said Village is situate; and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada; and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Village of New Hamburg.

New Hamburg incorporated as a Village from 1st January. 1858.

2.—The said Village shall comprise and consist of the following lots and parcels of land, that is to say: Lots twenty-two, twenty-three, twenty-four and twenty-five, north of Bleam's Road, and parts of lots twenty-two, twenty-three and twenty-four, south of Bleam's Road, and parts of lots twenty-two, twenty-three, twenty-four and twenty-five, south of Snyder's Road; and shall be bounded as follows: commencing at the most easterly angle of the said lot twenty-two, north of Bleam's Road; thence south seventy-eight degrees thirty minutes west, twenty-six chains and sixty links; thence south thirty-eight degrees and thirty minutes east, one chain and eighty-five links, more or less, to the River Nith, usually known as Smith's Creek; thence south thirteen degrees and thirty minutes east, five chains; thence south seventy-eight degrees and thirty minutes west, thirty-one chains, more or less, to the west limit of the River Nith, and continuing along that limit or side, in a south-westerly and north-westerly course against the current to Bleam's Road; thence south seventy-eight degrees west, along the said road to the limit between lots twenty-five and twenty-six; thence north thirty-eight degrees thirty minutes west, to the north limit of Bleam's Road, thence continuing on the same course on the limit between lots twenty-five and twenty-six, to the centre or half the distance between Bleam's Road and Snyder's Road, and continuing the same across the said centre to the north or front limit of the rear fifty acres of lot twenty-five south of Snyder's Road; thence north seventy-eight degrees and thirty minutes east, along the said

Boundaries of New Hamburg.

north or front limit to the original Road allowance between lots twenty-four and twenty-five, south of Snyder's Road, crossing the said Road allowance, and continuing across lots twenty-four, twenty-three and twenty-two to the east limit thereof; thence south thirty-eight degrees and thirty minutes east, along the east limit of the said lot twenty-two, to the centre or half the distance between Bleam's Road and Snyder's Road, and continuing the same course along the east limit of lot twenty-two, north of Bleam's Road, to the place of beginning.

20 VIC.—CAP. 106.

An Act to Incorporate the Village of Fergus, in the County of Wellington.

[Assented to 10th June, 1857.]

Fergus incorporated from 1st January, 1858.

1.—From and after the first day of January next, the inhabitants of the said Village of Fergus shall be a body corporate apart from the Township of Nichol in which the said Village is situate; and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Village of Fergus.

Boundaries of the Village.

2.—The said Village shall comprise and consist of the lots and parcels of land included within the following boundaries, that is to say: Commencing on the south bank of the Grand River where the Concession line between the fourteenth and fifteenth Concessions would strike that bank if produced; thence north-west along that Concession line to the west angle of lot twenty-one in the said fifteenth Concession; thence north-east along the division line between lots twenty and twenty-one to the Township line between Garafraxa and Nichol; thence south-east along the said Township line to the south-east side of the Road from Fergus to Garafraxa, in the first Concession of the said Township of Nichol; thence southwest along the south-east side of the said Road, until it intersects the Road allowance between lots number ten and eleven: thence north-west along the said Road allowance to the south bank of the Grand River; thence along the said bank of the Grand River, with the stream, to the place of beginning.

20 VIC.—CAP. 107.

An Act to Incorporate the Village of Elora, in the County of Wellington.

[Assented to 10th June, 1857.]

1.—From and after the first day of January next, the inhabitants of the said Village of Elora shall be a body corporate apart from the Township of Pilkington in which the said Village is situate; and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through and in the name of the Municipality of the Village of Elora.

Elora incorporated as a Village from 1st January, 1853.

2.—The said Village shall comprise and consist of the following lots and parcels of land, that is to say: All that part of this Province situate within the County of Wellington and lying within the following limits, that is to say: Commencing at the point of intersection of the northerly limit of the allowance for road between the broken front and first concession on the southerly side of the Grand River in the Township of Nichol, with the easterly limit of the allowance for road between the said Township and the Township of Pilkington, (formerly Township of Woolwich); thence, along the easterly limit of the allowance for road last mentioned, north-westerly, to the southerly angle of lot number eighteen,, in the eleventh concession of the said Township of Nichol; thence, along the south-easterly boundary line of the said lot and of lot number eighteen, in the twelfth concession, north-easterly, to the intersection of the boundary line between lots numbers four and five in the broken front, on the northerly side of the Grand River, produced north-westerly; thence, south-easterly, along the said boundary line produced, to the northerly margin of the Grand River; thence, along the said margin against the stream, to the intersection of the boundary line between lots numbers four and five in the broken front on the southerly side of the Grand River produced; thence, across the said river and along the boundary line last mentioned, south-easterly, to the northerly limit of the allowance for road between the said broken front and the first concession; thence, along the said northerly limit, south-westerly, to the place of beginning.

Boundaries of the Village.

20 VIC.—CAP. 108.

An Act to Incorporate the Village of Mitchell, in the County of Perth.

[Assented to 10th June, 1857.]

Mitchell in-
corporated
as a Village.

1.—From and after the passing of this Act, the inhabitants of the said Village of Mitchell shall be a body corporate apart from the Townships of Logan and Fullarton, in which the said Village is situate; and as such shall have perpetual succession and a Common Seal, with such powers and privileges as are now or shall hereafter be conferred on Incorporated Villages in Upper Canada, and the powers of such Corporation shall be exercised by, through and in the name of the Village of Mitchell.

Boundaries
of the Vil-
lage.

2.—The said Village shall comprise and consist of the lots and parcels of land, included within the following boundaries, that is to say: on the north, the concession road between the second and third concession of the Township of Logan, commencing at lot number eleven and ending at lot number twenty, both inclusive, of the said Township: on the east, the side Road between lots numbers twenty and twenty-one, in the Township of Fullarton, north, thirty degrees east, and the side road between lots numbers ten and eleven of the said Township of Logan; on the south the concession road between the second and third concession of the Township of Fullarton, south, sixty degrees east, commencing at lot twenty-one and ending at lot thirty of the said Township; and on the west the boundary line between the said Township of Fullarton, and the Township of Hibbert, north thirty degrees east, and the side road between lots numbers twenty and twenty-one of the said Township of Logan.

20 VIC.—CAP. 109.

An Act to legalize and confirm the acts and proceedings of the Municipal Council of the Township of Brantford.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 110.

An Act to enable the Municipal Council for the Township of Stanley, to construct a Harbour at the entrance of the River Bayfield into Lake Huron.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 111.

An Act to authorize the Municipalities of the Townships of East Zorra, West Zorra, and East Nissouri, in the County of Oxford, to dispose of certain Road allowances in the said Townships.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 112.

An Act to authorize the Municipality of the Township of McGillivray to dispose of certain Road Allowances in the said Township.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 113.

An Act to divide the Township of Whitby, in the County of Ontario, into two separate Municipalities.

[Assented to 10th June, 1857.]

1.—Upon and after the first day of January next after the passing of this Act, that part or portion of the present Township of Whitby, from Lots one to seventeen inclusive, from the shore of Lake Ontario to the rear of the Township, shall be set apart, and shall form a separate Municipality to be called the Township of East Whitby.

Township of East Whitby formed.

20 VIC.—CAP. 114.

An Act to divide the Township of Fredericksburgh in the County of Lennox, into two separate Municipalities.

[Assented to 10th June 1857.]

1.—Upon and after the first day of January next after the passing of this Act, all that part of the present Township of Fredericksburg lying to the south of Hay Bay, including the third concession east of Hay Bay, shall be set apart and form a separate Township Municipality, to be called the Township of South Fredericksburg; and the remainder of the said present Township shall continue to form a separate Township Municipality under the name of the Township of North Fredericksburgh.

Townships of North and South Fredericksburgh constituted.

20 VIC.—CAP. 115.

An Act to authorize the Draining of Lake Wawanosh, in the Township of Sarnia.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 116.

An Act for the establishment of a certain Concession Line in the Township of Clarke.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 180.

An Act to authorize G. S. Wilkes to construct a Dam on the Grand River at Holmedale.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 190.

An Act to enable the Trustees of Glebe Lot number twenty-nine, in the second Concession of the Township of Edwardsburgh, to sell and convey the East half of said Lot, originally granted in trust as an Endowment or Glebe for the Presbyterian Church in the Town of Brockville in connection with the Church of Scotland, and for other purposes.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 193.

An Act to authorize the Trustees of the Presbyterian Society of Hamilton to sell and convey certain Church property held by them.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 199.

An Act to vest in James Barnum a certain Road Allowance in the Township of Haldimand, in the County of Northumberland.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 200.

An Act to vest a certain Allowance for Road in the Township of Whitby, in Jonathan Foote and William Thorne.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 201.

An Act to vest in John Macara a certain portion of an Allowance for Road in the Township of London.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 202.

An Act to vest in John Mutrie a Road Allowance in the Township of Nichol, County of Wellington.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 203.

An Act to vest in Wollaston F. Pym a certain Road Allowance in the Township of Haldimand, in the County of Northumberland.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 204.

An Act to vest a certain Road Allowance in the Township of Brantford in Frederick T. Wilkes.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 205.

An Act for closing up certain Road Allowances in the Township of Thorold, and to vest the same in parties herein mentioned.

[Assented to 27th May, 1857.]

20 VIC.—CAP. 206.

An Act to vest a certain Allowance for Road in the Township of Oxford in John Christie.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 207.

An Act to vest a certain Allowance for Road in the Township of Winchester in the County of Dundas, in John Pliny Crysler and George Hummell, the elder.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 208.

An Act to vest a certain Road Allowance in the Township of Whitby, in John W. Gamble, Esquire.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 209.

An Act to vest certain Road Allowances in the Township of Whitby, in Thomas N. Gibbs, Esquire.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 210.

An Act to vest in John Shaw a certain allowance for road in the Township of Wilberforce.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 211.

An Act to vest in Charles Coxwell Small, Esquire, certain Road Allowances in the Township of Pickering.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 212.

An Act to vest in Josiah D. Wellington a certain allowance for road in the Township of Brighton.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 213.

An Act to vest a certain road allowance in the Township of Brantford, in George S. Wilkes.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 218.

An Act to amend the Act of Upper Canada, enabling the Presbyterian Congregation of York to purchase ground for a Church and Burying Ground.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 221.

An Act to enable the Incumbent and Churchwardens of the Mission of the Church of England at Georgina to dispose of certain lands belonging to the said Mission.

[Assented to 10th June, 1857.]

20 VIC.—CAP. 222.

An Act to enable the Trustees of a certain School Lot in the Town of Prescott to sell the said Lot, and for other purposes.

[Assented to 10th June, 1857.]

22 VIC.—CAP. 1.

An Act to amend the Naturalization Laws of this Province.

[Assented to 30th June, 1858.]

WHEREAS it is expedient further to amend the Naturalization laws of this Province, and further to shorten the period of continued residence required by the Act passed in the twelfth year of Her Majesty's reign, intituled, *An Act to repeal a certain Act therein mentioned, and to make better provision for the natrulization of Aliens: Therefore, &c.*

Preamble.

12 Vic. c. 197.

1.—The Act cited in the preamble to this Act shall be so amended as to reduce the the term of continued residence required by the fourth section thereof to three years and upwards, instead of seven years or upwards; and the words of the oath required to be taken under section five of the said Act, or in any certificate or other proceeding, shall be varied accordingly.

Required term of residence under section 4, reduced to three years.

2.—The Act passed in the eighteenth year of Her Majesty's reign, chaptered six, intituled, *An Act to amend the naturalization Laws of this Province*, shall be and is hereby repealed; *Provided always*, that the repeal of the said Act shall not affect the naturalization of any person naturalized under it, or any right of any person acquired under and in virtue thereof, but all rights so acquired shall be possessed and enjoyed as if the said Act had not been repealed.

18 Vic. c. 6, repealed.

Proviso: saving rights acquired.

22 VIC.—CAP. 13.

An Act to incorporate the Village of Renfrew in the County of Renfrew.

[Assented to 30th June, 1858.]

1.—From and after the passing of this Act, the inhabitants of the said Village of Renfrew shall be a body corporate apart from the Township of Horton, in which the said village is situate; and as such shall have perpetual succession and a common seal, with such powers and privileges as are now or shall hereafter be conferred on incorporated villages in Upper Canada, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Village of Renfrew.

Renfrew incorporated as a Village.

2.—The said Village shall comprise and consist of the following lots and parcels of land, that is to say: lots numbers nine, ten, eleven, twelve, thirteen, and fourteen in the first and second concessions of the Township of Horton in the County of Renfrew.

Boundaries of the Village.

22. VIC.—CAP. 14.

An Act to annex certain new Townships to the Counties of Victoria and Peterborough and the North Riding of the County of Hastings.

[Assented to 30th June, 1858.]

Preamble.

WHEREAS the rapid settlement of the new Townships of Carden, Dalton, Ryde, Draper, Macaulay, Digby, Longford, Oakley, Lutterworth, Anson, Hindon, Laxton, Snowdon, Minden, Stanhope, Glamorgan, Dysart, Guilford, Monmouth, Dudley, Harburn, Chandos, Cardiff, Harcourt, Bruton, McClure, Herschel, Faraday, Wollaston, Wicklow, Monteagle, Dunganan, Limerick, Bangor, Carlow, Mayo, and Cashel, which have been recently surveyed, and which adjoin the present limits of the Counties of Victoria, Peterborough and the North Riding of the County of Hastings, renders it expedient that the said Townships should be annexed to the said Counties respectively, in the manner hereinafter mentioned : *Therefore, &c.*

Certain new Townships annexed to Victoria.

1.—From and after the passing of this Act the said Townships of Carden, Dalton, Ryde, Draper, Macaulay, Digby, Longford, Oakley, Lutterworth, Anson, Hindon and Laxton, shall be attached to and form part of the said County of Victoria for all purposes whatsoever.

Certain others annexed to Peterborough.

2.—From and after the passing of this Act the said Townships of Snowdon, Minden, Stanhope, Guilford, Dysart, Glamorgan, Monmouth, Dudley, Harburn, Bruton, Harcourt, Cardiff and Chandos, shall be attached to and form part of the County of Peterborough for all purposes whatsoever; And the said Townships of McClure, Herschel, Faraday, Wollaston, Wicklow, Monteagle, Dunganan, Limerick, Bangor, Carlow, Mayo, and Cashel, shall be attached and to form part of the North Riding of the County of Hastings for all purposes whatsoever.

And certain others to North Riding of Hastings.

22 VIC—CAP. 15.

An Act to legalize certain By-laws and Debentures of the Town Council of Cobourg, and to amend the Act vesting the Cobourg Harbour in the Municipal Corporation of the Town of Cobourg, and for other purposes.

[Assented to 30th June, 1858.]

22 VIC.—CAP. 41.

An Act to incorporate the Town of Stratford.

[Assented to 24th July, 1858.]

1.—The Village of Stratford as described and defined by limits under the Royal Proclamation bearing date the twenty-third day of September, in the year of our Lord, one thousand eight hundred and fifty-three, together with the following additions, namely,—Lots numbers four and five in the first Concession of the Township of Downie; lots numbers four and five in the first Concession of the Township of Ellice, and lot number forty-six in the second Concession of the Township of North Easthope, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and fifty nine, be incorporated as a Town to be called the Town of Stratford, with the rights, powers and privileges of incorporated Towns in general, and as if the said Town had been mentioned and included in the Schedule B. annexed to the Upper Canada Municipal Corporations Act of 1849, and with the rights, powers and privileges which shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns in general; and all the rules, regulations, provisions, and enactments therein contained, or which shall in anywise relate or belong to the same shall apply to the Town of Stratford as fully as if the said Town had been contained in the said Schedule B., with the exception hereinafter made as regards the first Municipal election.

Stratford
incorporated
as a Town,
with certain
additions to
its limits.

Rights and
powers of
the Corpora-
tion.

2.—The said Town of Stratford shall be divided into five Wards, the bounds and designations of which shall be as follows that is to say:

Division into
five Wards.

1. Shakspeare Ward shall comprise that portion of the town formerly forming part of the Gore of the Township of Downie, bounded on the west by the centre of Erie street, on the east by the centre of Downie road, on the north by the centre of Ontario street, and on the south by the Town limits;

Shakspeare
Ward.

2. Avon Ward shall comprise that portion of the Town formerly forming part of the said Township of Downie, north of the River Avon, and that part of the Township of Ellice west of the Stratford Northern Gravel road, bounded on the south by the centre of the River Avon, on the east by the centres of Huron, St. George, Mornington, and Wellesley streets, and the Stratford Northern Gravel road, and on the north and west by the town limits;

Avon Ward.

3. Hamlet Ward shall comprise that portion of the town for-

Hamlet
Ward.

merly forming part of the said Township of Downie, south of the River Avon, bounded on the north by the centre of the River Avon and the centres of Huron and Ontario Streets, on the east by the centre of Erie street, and on the south and west by the town limits;

Romeo Ward.

4. Romeo Ward shall comprise that portion for the town formerly forming part of the Township of South Easthope, bounded on the north by the centre of Ontario street, on the west by the centre of the Downie road, and on the east and south by the town limits;

Falstaff Ward.

5. Falstaff Ward shall comprise that portion of the town formerly forming parts of the Townships of North Easthope and Ellice, east of the centre of the Stratford Northern Gravel road bounded on the south by the centre of Ontario street, on the west by the centres of Huron, St. George, Mornington and Wellesley streets, and the said Stratford Northern Gravel Road, and on the north east by the town limits.

22 VIC.—CAP. 42.

An Act to incorporate the Village of Southampton in the County of Bruce.

[Assented to 24th July, 1858.]

Southampton incorporated as a Village.

1.—From and after the passing of this Act, the inhabitants of the said Village of Southampton shall be a body corporate apart from the Township of Saugeen, in which the said Village is situate; and as such shall have perpetual succession and a common seal, with such powers and privileges as are now or shall hereafter be conferred on incorporated villages in Upper Canada, and the powers of such corporation shall be exercised by, through, and in the name of the municipality of the village of Southampton.

Boundaries of the Village.

2.—The said Village shall comprise and consist of the tract of land bounded as follows, that is to say: commencing at the north-westerly angle of farm lot number nine in the twelfth Concession of the Township of Saugeen; thence, running northerly along the western boundary of lots number nine in the thirteenth, fourteenth, fifteenth and sixteenth concessions of the said Township; thence running easterly along the northern boundary of the aforesaid sixteenth concession to, and across the Saugeen River; thence, northerly and westerly along the bank of said River, to the eastern boundary of Craig street, on a line produced; thence running northerly along the eastern boundary of said Street to Lake Huron, and into the

said Lake on the line of said street produced, five hundred yards; thence running southerly, keeping a distance of five hundred yards from the shore of Lake Huron, and parallel thereto, to the southern boundary on a line produced, of the allowance of road between the twelfth and thirteenth concessions of the Township of Saugeen; thence, running easterly along the southern boundary of said allowance for road to the place of beginning.

22 VIC.—CAP. 43.

An Act to incorporate the Village of Pembroke in the County of Renfrew.

[Assented to 24th July, 1858.]

1.—From and after the passing of this Act, the inhabitants of the Village of Pembroke shall be a body corporate apart from the Township of Pembroke in which the said Village is situate, and as such shall have perpetual succession and a common seal, with such powers and privileges as are now or shall be hereafter conferred on incorporated Villages in Upper Canada; and the powers of such corporation shall be exercised by, through, and in the name of the Municipality of the Village of Pembroke.

Pembroke
incorporated
as a Village.

2.—The incorporated Village of Pembroke shall comprise the limits and boundaries of the present Police Village of Pembroke, as defined by the County Council of the United Counties of Lanark and Renfrew.

Boundaries
of Village of
Pembroke.

22 VIC.—CAP. 44.

An Act to amend the Act intituled, An Act to incorporate the Village of Kemptville, and to change the limits of the said Village.

[Assented to 24th July, 1858.]

WHEREAS it appears by the Petition of the Municipality of the Village of Kemptville, and of sundry inhabitants of the said Village, that the inhabitants of that Municipality are desirous of changing the limits of the said Municipality: *Therefore, &c.*

Preamble.

1.—The Schedule to the Act passed in the twentieth year of the Reign of Her Majesty, intituled, *An Act to incorporate the Village of Kemptville*, shall be and the same is hereby repealed, and the following Schedule shall be substituted therefor:

Schedule to
this Act sub-
stituted to
that to 20
Vic. c. 99.

SCHEDULE.

BOUNDARIES OF THE VILLAGE OF KEMPTVILLE.

Commencing in front of the third Concession of the Township of Oxford, at a post planted on lot number twenty-six, between land owned by William Henry Bottam, Esquire, and land owned by the Reverend Henry Patton; thence, southward, along the line between the land of the said William Henry Bottam, and the Reverend Henry Patton, in its different bearings, to a certain piece of land used and occupied for a Grammar School House; thence, along the western boundary of said School land to the public highway; thence southward, along the eastern boundary of land now owned by the said William Henry Bottam, to the centre of the south branch of the River Rideau; thence, along the centre of the south branch of the River Rideau, a north-eastern course, to the side line between lots twenty-six and twenty-seven; thence, southward along the said line between lots numbers twenty-six and twenty-seven to the rear of the said third concession; thence, eastward, along the rear of the said third concession to the easterly limit of lot number twenty-eight, in the said third concession; thence, northward, along the side line between lots numbers twenty-eight and twenty-nine to the front of the said third concession; thence, westerly, along the front line of the said third concession, to the place of beginning.

22 VIC.—CAP. 45.

An Act to incorporate the Village of Embro.

[Assented to 24th July, 1858.]

Embro incorporated
as a Village.

1.—From and after the passing of this Act, the inhabitants of the said Village of Embro shall be a body corporate apart from the Township of West Zorra, in which the said Village is situate, and as such shall have perpetual succession and a common seal, with such powers and privileges as are now or shall hereafter be conferred on incorporated Villages in Upper Canada, and the powers of such corporation shall be exercised by, through, and in the name of the Municipality of the Village of Embro.

Boundaries
of the
Village.

2.—The said Village shall consist of the east half of each of the lots numbers eleven and fourteen, and lots twelve and thirteen in the fourth concession, and of lots numbers eleven, twelve, thirteen, and fourteen, in the fifth concession of the Township of West Zorra.

22 VIC.—CAP. 46.

An Act to incorporate the Village of Welland in the County of Welland.

[Assented to 24th July, 1858.]

1.—From and after the passing of this Act, the inhabitants of the Village heretofore known as the Village of Merrittsville shall be a body corporate apart from the Townships of Crowland and Thorold, in which the said Village is situate, and as such shall have perpetual succession and a common seal, with such powers and privileges are now or shall hereafter be conferred on incorporated Villages in Upper Canada, and the powers of such corporation shall be exercised by, through, and in the name of th Municipality of the Village of Welland.

Village of
Welland in-
corporated.

2.—The said Village of Welland shall comprise and consist of the territory contained within the following named boundaries, that is to say : commencing on the north side of the River Welland, at the north-east corner of lot number two hundred and forty-seven, in the Township of Thorold ; thence west along the north ends of lots numbers two hundred and forty-seven, two hundred and forty-eight, and two hundred and forty-nine in the said Township of Thorold, to the western boundary of the said lot two hundred and forty-nine ; thence south along the western boundary of the said lot to the River Welland ; thence across the said River to the north-west corner of lot number twenty-seven in the fifth concession of the Township of Crowland ; thence south along the western boundary of the said lot number twenty-seven to the road allowance between the fifth and sixth concessions of the said Township of Crowland ; thence east along the southern boundary of the said lot to the south-west corner of lot number twenty-six in the sixth concession of the said Township of Crowland ; thence south across the said road allowance and along the western boundary of lot number twenty-six in the sixth concession in the said Township of Crowland, twenty-five chains ; thence east across the said lot number twenty-six and lot number twenty-five to the allowance for road between lots twenty-five and twenty-four ; thence north along the said road allowance to the north side of the road allowance between the said fifth and sixth concessions ; thence east along this road allowance to the south-west corner of lot number twenty three in the said fifth concession ; thence north along the road allowance to the north-east corner of lot number twenty-three in the fourth concession ; thence west to the River Welland ; thence across the River Welland to the place of beginning.

Boundaries
of the
Village

22 VIC.—CAP. 47.

An Act to confirm a Proclamation of the Governor General incorporating the Village of Streetsville, and to legalize and confirm the acts and proceedings of the Municipal Council of the said Village.

[Assented to 24th July, 1858.]

The Village to receive a certain proportion of the U. C. Municipalities Fund.

3.—The said Village of Streetsville shall be entitled to receive from the said Township of Toronto such share of all money apportioned to such Township from the Upper Canada Municipalities Fund, prior to the passing of this Act, and now unappropriated, as shall bear the same proportion to the whole sum so apportioned to the said Township, as the number of rate-payers resident within the said Village as shown by the Collector's Roll of the year one thousand eight hundred and fifty-seven, bears to the whole number of the rate-payers of the said Township.

22 VIC.—CAP. 48.

An Act to remedy certain informalities with respect to the Assessment Rolls of the Town of Windsor in the County of Essex, and the Township of Richmond in the County of Lennox.

[Assented to 24th July, 1858.]

22 VIC.—CAP. 49.

An Act to legalize the By-law number eighteen of Ingersoll, for raising a certain sum of money therein mentioned.

[Assented to 24th July, 1855.]

22 VIC.—CAP. 50.

An Act to re-unite School Section number five in the Township of Trafalgar, in the County of Halton, to the Town of Milton, in the said Township, for School purposes only.

[Assented to 24th July, 1858.]

22 VIC.—CAP. 51.

An Act to annex School Section number three in the Township of Matilda, in the County of Dundas, to the School Section of the Village of Iroquois.

[Assented to 24th July, 1858.]

22 VIC.—CAP. 59.

An Act to establish the true location of the allowance for road between the Municipalities of Toronto Gore and Etobicoke.

[Assented to 24th July, 1858.]

1.—The location of the allowance for road between the said Municipalities of Toronto Gore and Etobicoke, was and is adjoining to but wholly on the original line known as the Indian or thirty-six mile line; and the said allowance is and shall be the public highway between the said Municipalities.

Place of the said allowance defined.

22 VIC.—CAP. 60.

An Act to confirm the survey of part of the seventh concession of the Township of Hope, in the County of Durham, as made by the late Deputy Provincial Surveyor, John Hewston.

[Assented to 24th July, 1858.]

22 VIC.—CAP. 80.

An Act to vest certain portions of Bathurst Street, in the City of London, in the London and Port Stanley Railway Company, and to facilitate the said Company in the disposal of certain of their Real Estate.

[Assented to 7th August, 1858.]

22 VIC.—CAP. 82.

An Act to define the Elective Franchise, to provide for the Registration of Voters, and for other purposes therein mentioned.

[Sanctioned 16th August, 1858.]

Her Majesty, &c., enacts:

1.—From the time when this Act shall come into force, the Act passed in the eighteenth year of Her Majesty's reign, chapter eighty-seven, and so much of an Act passed in the twelfth year of Her Majesty's reign, chapter twenty-seven, and of all other Acts and parts of Acts as may be contrary to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed, save only and except so far as such Acts repeal the whole or any part of any other Acts, and also, save and except so far as relates to any matters or things done at any time before this Act shall come into force, all which

The Act 18 Vic. c. 87, and so much of 12 Vic. c. 37, or of any other Act, as is inconsistent with this Act, repealed.

Exceptions.

matters and things shall remain as valid and effectual as if this Act had not been passed, and also, save and except as to the recovery and application of any penalty for any offence which shall have been committed before this Act shall come into force as aforesaid.

QUALIFICATION OF VOTERS.

Persons hereinafter mentioned, and no others to be qualified as Electors, if duly registered.

2.—The following persons, (and no other persons) being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified as holding any office or otherwise by law prevented from voting, shall, if duly registered or entered on the revised and certified list of voters according to the provisions of this Act, be entitled to vote at Elections of Members to serve in the Legislative Council or Legislative Assembly of this Province, that is to say :

Qualification of Electors in cities or towns sending Members to the Legislative Assembly.

1. Every male person entered on the then last Assessment Roll, revised, corrected and in force in any City or Town entitled to send a Member or Members to the Legislative Assembly, as the owner or as the tenant or occupant of real property therein, or within the liberties thereof as bounded for municipal purposes, of the assessed value of three hundred dollars or upwards, or of the assessed yearly value of thirty dollars or upwards, or who is entered on such last revised and corrected Assessment Roll of any Township, Parish or Place, as the owner, tenant or occupant of any real property which is within the limits of any such City or Town for the purposes of Representation, but not for municipal purposes, of the assessed value of two hundred dollars at least, or of the assessed yearly value of twenty dollars, or upwards, shall be entitled to vote at any Election of a Member to represent in the Legislative Council the Electoral Division of which such City or Town forms a part, and shall also be entitled to vote at any Election of a Member to represent in the Legislative Assembly the said City or Town : subject always to the provisions hereinafter contained ;

Qualification of Electors in places not being within cities or towns, entitled to send Members to the Legislative Assembly.

2. Every male person entered on the then last Assessment Roll, revised, corrected and in force in any Parish, Township, Town, Village or place, not being within any City or Town entitled to send a Member or Members to the Legislative Assembly, as the owner, tenant or occupant of real property of the assessed value of two hundred dollars or upwards, or of the yearly assessed value of twenty dollars or upwards, shall be entitled to vote at any Election of a Member to represent in the Legislative Council the Electoral Division of which such

Parish, Township, Town, Village or place forms a part, and shall also be entitled to vote at any Election of a Member to represent in the Legislative Assembly the Electoral Division in which such Parish, Township, Town, Village or place is included : subject always to the provisions hereinafter contained.

3. Whenever two or more persons, whether as being partners in business, joint tenants or tenants in common, or *par indivis*, are entered on such Assessment Roll as aforesaid, as the owners of any real property, or as tenants or occupants thereof, each of such persons shall be entitled to vote and to be entered on the list of voters in respect of such property, if the value of his part or share be sufficient to have entitled him to vote at any Election for Members to represent in the Legislative Council or Assembly the Electoral Division within which such property is situate, if such property had been assessed in his individual name : except that if the property be held by any body Corporate, no one of the members thereof shall be entitled to vote or be entered on the list of voters, in respect of such property : *Provided*, that in Upper Canada such persons, as in this subsection mentioned, must establish their right before the Court of Revision or County Judge, according to the provisions of the Assessment Laws, and be entered on the Assessment Roll accordingly.

In what cases joint owners or tenants of any property may vote on it.

Exception.

Proviso.

PERSONS DISQUALIFIED FROM VOTING.

3.—No Returning Officer, Deputy Returning Officer, Election Clerk or Poll Clerk, no person disqualified to vote under the provisions of the Statute passed in the twentieth year of Her Majesty's reign, chapter twenty-two, and no person who, at any time either during the Election or before the Election, shall be employed at the said Election, or in reference thereto, or for the purpose of forwarding the same, by any Candidate, or by any person whomsoever, as Counsel, Agent, Attorney or Clerk at any polling place at any such Election, or in any other capacity whatever, and who shall have received or expect to receive, either before, during or after the said Election, from any candidate or from any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatever for any sum of money, fee, office, place or employment, shall be entitled to vote at any Election of a Member of the Legislative Council or Assembly.

Certain officers and persons not to vote.

REGISTRATION OF VOTERS AS REGARDS UPPER CANADA ONLY.

4. 1. The Clerk of each Municipality in Upper Canada shall, after the final revision and correction of the Assessment

Clerks of Municipalities to make

Lists of Electors from the assessment rolls.

As to cities and towns divided into wards.

Municipalities extending into more than one Electoral Division.

Lists to be attested, and how.

Duplicates; to Clerk of the Peace.

When to be completed.

No one not on such List to vote.

What question only to be raised at Poll, as to qualification.

When the Roll or List shall be considered finally revised.

Notice of appeal under sec. 28 of 16 Vic. c. 182.

Decision of County Judge, &c., to be final

rolls, forthwith make a correct alphabetical list of all persons entitled to vote at the election of a Member of the Legislative Council and Assembly within such Municipality, according to the provisions of this Act, together with the number of the lot or part of lot, or other description of the real property in respect of which each of them is so qualified; and in Cities and Towns, the Clerks shall make out a separate list for each Ward, of the names with a description of the property of all parties on the Assessment-rolls who may be entitled to vote in respect of real property situate within such Ward; and if any Municipality shall be partly in one Electoral Division and partly in another for the purposes of any Election, he shall make out one such alphabetical list for each of such Electoral divisions, containing the names, with such description of property, of all the parties on the Assessment-rolls who may be entitled to vote in respect of real property situate in each of such Electoral divisions respectively; and the Clerk shall certify by oath or affirmation before the Judge of the County Court, or before any two Justices of the Peace, to the correctness of the list or lists so by him made out, and he shall keep such certified lists among the records of the Municipality, and shall deliver a duplicate original thereof certified by oath or affirmation as aforesaid, to the Clerk of the Peace of the County or Union of Counties within which the said Municipality shall lie; and all such lists shall be completed and delivered as aforesaid, on or before the first day of October in each year; and no person shall be admitted to vote at any Election of a Member to serve in the Legislative Council or Assembly, unless his name shall appear upon the list then last made and certified; and no question of qualification shall be raised at any such Election, except to ascertain whether the party tendering his vote is the same party intended to be designated in the alphabetical list aforesaid;

2. Any Assessment-roll or List of Voters shall be understood to be finally revised and corrected, when it shall have been so revised and corrected, by the Judge of the County Court, or other authority to whom the last appeal may be made or when the time during which such appeal may be made shall have elapsed, and not before;

3. The notice of appeal from the Court of Revision under the twenty-eighth section of the Act sixteenth Victoria, chapter one hundred and eighty-two, may be by the Attorney or Agent of the party; and the decision of the County Judge or acting Judge of the County Court, under the said section, shall be final and conclusive in the case adjudicated upon, and shall

be binding on every Committee of the Legislative Council and Legislative Assembly respectively, appointed for the trial of any Petition complaining of an undue election or return of a Member to serve in the Legislative Council or Legislative Assembly; and at the Court holden under the said section for the trial of appeals, the Clerk of the Municipality, or other person having the charge of the Assessment-roll passed by the Court of Revision under the twenty-eighth section of the said Act, shall appear and produce such Roll, and also all papers and writings in his custody, connected with the matter of appeal; and when such Roll is so produced in Court, the same shall be altered and amended according to the decision of the Judge (if then given) who shall write his initials against any part of the said list in which any mistake, error or omission is corrected or supplied, or if the said Roll be not then produced, or the decision be not then given by the Judge, or if so ordered by the Judge, such decision and judgment shall be certified by the Division Court Clerk to the Clerk of the Municipality, who shall forthwith alter and amend the Roll according to the same, and shall write his name against every such alteration or correction; and in all proceedings before the County Judge, or acting Judge of the County Court, under the said Act, or under, or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of, and for the examination on oath of all parties whether claiming or objecting, or objected to, and all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him, either in term time or vacation in the County Court, in relation to any matter or suit depending in the said Court. And the costs of any proceeding before the County Judge as aforesaid, shall hereafter be paid by, or apportioned between the parties in such manner as the Judge shall think fit, and costs ordered to be paid by any party claiming or objecting, or objected to, or by any Assessor Clerk of a Municipality, or other person, may be enforced by execution from the Division Court in the same manner as upon an ordinary judgment recovered in such Court; but the party appealing shall, notwithstanding this clause, continue to deposit the sum of ten shillings for each party appealed against, as security for the costs of appeal.

and bind all parties.

Assessment Roll to be produced to the Court of Revision.

And amended according to the decision of the Judge.

Amendments how certified.

County Judge to have power to examine on oath, &c.

Costs to be apportioned by the Judge and how enforced.

Deposit by appellant.

5.—Lower Canada only.

MISCELLANEOUS PROVISIONS.

6.—It shall be the duty of the Registrar of any County or Registration Division, any Clerk of the Peace and any Clerk

Copies of Lists to be furnished on

demand and
payment of
certain fees.

or Secretary-Treasurer of any City or Municipality or part of any Municipality, having the custody of the list of voters of any City or Municipality or part of any Municipality or place, to furnish a certified copy of such lists, then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of three cents for every ten voters whose names are on such list.

Clerks, &c.,
wilfully
altering or
falsifying
lists of Voters,
to be
guilty of
felony.

7.—If the Clerk, Treasurer or Secretary-Treasurer of any City or Municipality, shall neglect to make the alphabetical list as required by the third sub-section of the fifth section of this Act, or in making out any certified list of persons entitled to vote at any election of a member to serve in the Legislative Council or Assembly, wilfully insert or omit any name which ought not to have been inserted or omitted, or otherwise alter or falsify the same so that it shall not be the correct list of all persons entitled to vote according to the Assessment-roll or (in Lower Canada) to the proper list of voters, as finally revised and corrected, and if any Clerk, Secretary-Treasurer, Returning Officer, Deputy-Returning Officer, Registrar, Clerk of the Peace or any other person whose duty it is to deliver copies or have the custody of any certified list of voters as aforesaid, shall wilfully make any alteration, omission or insertion, or in any way falsify any such certified list or copy, every such person shall be deemed guilty of felony, and being convicted thereof shall be liable at the discretion of the Court whose duty it shall be to pass the sentence of the law upon such offender, to be imprisoned at hard labour in the Provincial Penitentiary, for any term not exceeding seven years, nor less than two years, or to be imprisoned in any other place of confinement for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment or both, as the Court shall award; and it shall not in any indictment for any such offence be necessary to allege that the article in respect of which the offence is committed, is the property of any person, or that the same is of any value.

Punishment.

Certain allegations not
requisite in
indictment.

At any time
before the
issuing of a
Writ of Election,
a Judge, on its
being shewn
that any
such list is
not correct,
according to
the assessment,
may have such
list brought

8.—If at any time before the issuing of the Writ to hold any Election for a Member to serve in the Legislative Council or Assembly, it shall be made to appear to the County Judge or Acting Judge of the County Court in Upper Canada, that the Clerk or Secretary-Treasurer of any City or Municipality in making the alphabetical list of persons entitled to vote as aforesaid or the duplicate original thereof, has wilfully or inadvertently omitted or inserted my name which ought not to be inserted or omitted, or otherwise altered or falsified the same, or that such alphabetical list or duplicate original is in

point of fact not a correct list of all persons entitled to vote according to the Assessment Roll as finally revised and corrected, such Judge may require the Clerk or Secretary-Treasurer of the City or Municipality or other officer having the custody of such Assessment Roll, to appear before him and produce such Roll and alphabetical list and submit to such examination upon oath as may be required of him: And at the time and place appointed for the appearance of such person, the Clerk of the Peace in Upper Canada shall attend before the Judge with the duplicate alphabetical list in his possession; And the Judge may, on inspection of such Assessment Roll and list, and with or without further proof at his discretion, make such alterations and corrections in such lists as to him shall seem necessary and proper, in order that the same may be a correct list of all persons entitled to vote according to the Assessment Roll as finally revised and corrected, and according to the spirit and meaning of this Act.

before him
and correct-
ed.

9 to 22, inclusive.—Proceedings at Elections, &c.

INTERPRETATION.

23.—Wherever the following words occur in any part of this Act as having reference to Lower Canada, they shall be interpreted as follows:

Interpreta-
tion clause.

The words "Assessment-Roll" shall signify Assessment-Roll, Valuation-Roll, or any document containing a statement of the Valuation of property in any City, Town or other Municipality.

Assessment
Roll.

The word "Assessor" shall signify Assessor, Valuator or other person employed to make the valuation of property in any City or other Municipality.

Assessor.

The word "Owner" shall signify proprietor, either in his own right or in the right of his wife, or as usufructuary (*usufruitier*) of a real estate in *fief*, in *censive*, in *franc-aleu*, or in free and common soccage.

Owner.

22 VIC.—CAP. 91.

An Act to provide for the Registration of Debentures issued by Municipal and other Corporate Bodies.

[Assented to 16th August, 1858.]

WHEREAS it would tend greatly to the increased value of Debentures issued under the authority of By-laws of Municipal and other Corporate Bodies passed for the purpose of raising Moneys, and also to the better security of the holders

Preamble.

of the same, that a system of Registration should be adopted, and a priority of lien in respect thereof given under certain conditions: *Therefore, &c.*

Certified copies of all By-laws heretofore passed by Municipal and Corporate Bodies, under which Debentures have been issued, to be transmitted to the proper Registrar within three months after the passing of this Act, together with a Return as in Schedule A.

1.—It shall be the duty of the Clerk or Secretary-Treasurer or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other Corporate Body, within the period of three months after the passing of this Act, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, a copy duly certified as hereinafter provided, of each and every By-law of such Municipal or Provisional Municipal Corporation, or other Corporate Body heretofore passed under or by authority of which respectively any sum or sums of money may have been raised by the issue of Debentures, together with a Return in the form specified in the Schedule hereunto annexed, marked A, shewing the title or objects of each such By-law, the number of Debentures issued and the amounts thereof respectively, the amounts raised under the said By-laws respectively, the amounts already heretofore paid or redeemed by the said Corporation on the account of the same, the balance still remaining outstanding and payable thereunder respectively, the dates at which the same respectively fall due, and the amount of yearly rate to pay off the same, and the assessed value of the real and personal estate of the Municipality (or Company), and to cause the said Return to be published three times in both languages in the "Canada Gazette," and also three times in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper.

Certified copies of all By-laws under which Debentures are intended to be issued, to be transmitted to the proper Registrar within two weeks after the final passing of such By-laws, together with a Return, as in Schedule B.

2.—From and after the passing of this Act, it shall be the duty of the Clerk or Secretary-Treasurer or person acting as such of every Municipal or Provisional Municipal Corporation, or of the Clerk or Secretary, or person acting as such of any other Corporate Body, within two weeks after the final passing of any By-law hereafter to be made and passed by such Corporation for the purpose of raising money by the issue of Debentures, and before the sale or contract for sale of any such Debentures issued or intended to be issued thereunder, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body, or its principal office is situated, a copy duly certified, as hereinafter provided, of each and every By-law hereafter to be made and passed as aforesaid by such Municipal or Provisional

Municipal Corporation, or other Corporate Body, together with a Return in the form specified in the Schedule B hereunto annexed, shewing the title or object of each such By-law, the amounts to be raised thereunder, the number of Debentures to be issued thereunder, the amounts thereof respectively, the dates at which the same respectively fall due, the assessed value of the real and personal estate belonging to such Corporation or Company,—the assessed value of the real and personal estate of the Municipality, and the amount of yearly rate in the Pound to liquidate the same, and to cause said Return to be published three times in both languages in the *Canada Gazette*, and also three times in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper.

3.—The Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, shall receive and file in his office the several By-laws required to be transmitted to him as hereinbefore provided, and shall cause to be entered in a Book provided for that purpose, true and correct copies of the Returns hereinbefore required by the first and second sections of this Act

Registrar to file such By-laws, and to keep Books with copies of the Returns required by secs. 1, 2.

4.—The Registrar of each County or Registration Division, as aforesaid, shall provide a Book of Registration, wherein he shall, at the request of the original holder or holders, or any subsequent transferee or transferees thereof respectively, from time to time, cause to be entered and registered the name of such original holder or holders, or of such subsequent transferee or transferees, and such holder or last registered transferee in such Book of Registration shall be deemed *prima facie* the legal owner and possessor thereof.

If requested, the Registrar may register the name of such holder of any Debenture, and registration to be *prima facie* evidence.

5.—All By-laws mentioned in the first section of this Act shall be certified and authenticated in the case of a Municipal or Provisional Municipal Corporation by the Seal of the Corporation, and by the Head, and by the Clerk or Secretary-Treasurer thereof respectively, being such at the time of the date of such certificate and authentication; and all By-laws mentioned in the second section of this Act shall be certified and authenticated by the Seal of the Corporation, and by the signature of the Head thereof, or of the person presiding at the Meeting at which the original By-law shall have been made and passed, and also by that of the Clerk or Secretary of such Corporation; and all By-laws of other Corporate Bodies

Mode in which By-laws shall be certified.

shall be attested and authenticated by the Seal of such Corporate Body and by the signature of the Head thereof.

By-laws, returns and books of entry in Registry Office to be open to inspection.

6.—The certified copies of all By-laws hereinbefore referred to and transmitted as aforesaid, and also the Returns in the first and second sections mentioned, and the Book or Books of Entry of such Returns and of Registration, shall be open to public inspection and examination, and access had thereto at all seasonable times and hours upon payment of certain fees as hereinafter provided.

Fees to be payable under this Act.

7.—The following fees shall be paid to Registrars under this Act.

For registration of each certified copy of By-laws, the sum of.....	£0	10	0
For registration of any Returns as prescribed in Schedules A and B, for each such Return, the sum of	0	5	0
For registration of the name of holder or transferee, of any number of Debentures not exceeding five, the sum of.....	0	1	3
Over five and not exceeding fifteen, the sum of....	0	2	6
Over fifteen and not exceeding thirty, the sum of...	0	3	9
Upwards of thirty, the sum of.....	0	5	0
For making search, inspecting each copy of By-law, and examining entries connected therewith...	0	5	0

Meaning of term "final passing," as to By-laws to be submitted to the Governor.

8.—In all such cases as require the submission of any By-law or By-laws to the Governor General of this Province for his sanction, such sanction must first be obtained to bring the same within the meaning of the words "final passing thereof" in the second section of this Act.

Act not to extend to Railway Companies or Ecclesiastical Corporations, &c.

9.—This Act shall not extend to the By-laws or Debentures thereunder, of any Railway Company or any Ecclesiastical Corporation heretofore incorporated or hereafter to be incorporated, or the Debentures issued by any Religious Denomination in its Corporate capacity, either in Upper or Lower Canada.

Negligence of duty, misdemeanor.

10.—Any person neglecting to perform, within the proper period, any duty devolving upon him in virtue of the first or second sections of this Act, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by imprisonment for a period of not less than three nor more than twelve months.

Short Titles of this Act.

11.—This Act shall be cited as "The Debentures Registration Act."

SCHEDULE A.

RETURN as required by the Act intituled, *An Act to provide for the Registration of Debentures issued by Municipal and other Corporate Bodies*, of Debentures issued by the _____ [Corporate name.]

1	2	3	4	5	6	7								
Title or Objects of each By-law.	Number of Debentures issued and Amounts.		Amount raised under each By-law.	Amount paid or redeemed on account of said Debentures.	Balance still remaining outstanding and payable on said Debentures.	Dates at which Debentures fall due, and Amount of yearly rate to pay off same.	Assessed value of Real and Personal Estate of the Municipality (or Company).							
	Number.	Amounts.												
						<table><tr><th>Dates of Debentures falling due.</th><th>Amount of yearly rate in the £.</th><th>Real.</th><th>Personal.</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>	Dates of Debentures falling due.	Amount of yearly rate in the £.	Real.	Personal.				
Dates of Debentures falling due.	Amount of yearly rate in the £.	Real.	Personal.											

Dated at _____, this _____ day of _____, 18—.

22 VIC.—CAP. 100.

An Act to amend and consolidate the Jury Laws of Upper Canada.

[Assented to 16th August, 1858.]

XV.—PAYMENT OF JURORS.

1. GRAND JURORS.

138.—The several County Councils shall from time to time by By-law, in their discretion, provide for the payment to Grand Jurors, either at the Courts of Oyer and Terminer and General Gaol Delivery, or at the General Quarter Sessions, out of the County funds, such sum per diem as they deem reasonable.

County Councils to provide funds for paying Grand Jurors.

2. PETIT JURORS.

139.—Every Petit Juryman actually attending any of the Courts of Assize and Nisi Prius, Oyer and Terminer, General Gaol Delivery, General Quarter Sessions of the Peace, or County Courts in Upper Canada, shall be entitled to receive in the manner hereinafter provided, the sum of one dollar per day, for every day he attends such Court, and the sum of ten cents per mile for every mile he necessarily travels from his place of residence to the said Court, or such other sums as the County Council by By-law from time to time fixes and determines, and the distance travelled shall be ascertained by the declaration of the Sheriff's Bailiff who summoned such Juror, or by the declaration of the Juror himself; but every Juror who makes a false declaration respecting such distance, shall forfeit his right to receive any payment for travelling to or attending such Court as a Juror.

Allowance to petit jurors attending certain Courts.

False declaration.

140.—No Petit Juror shall be entitled to any fee or allowance other than is provided by or under this Act.

Only fees.

141.—Every Sheriff shall make a pay list for the Petit Jurors summoned to attend any of the aforesaid Courts in the form set forth in the Schedule to this Act marked C, and shall attend or cause some Officer to attend at the opening of the Court, on the morning of every day on which such Court sits for the trial of causes by Jury, and upon the Petit Jurors being called over, shall check and mark the word "present," or "absent," as the case may be, in the proper column of such list opposite the name of every such Juror, and on the last day of the sitting of such Court shall certify and return the said pay list to the Treasurer of the County.

Sheriff to make a pay list for Petit Jurors.

Treasurer to
pay the
Jurors.

142.—The said pay list, checked and certified as aforesaid, shall be a sufficient authority for the Treasurer to pay to each Petit Juror the sum to which he appears entitled, as certified by such list, and the Treasurer shall forthwith pay every such Juror the sum so appearing due to him on such list.

Allowances
to Sheriffs.

143.—Every Sheriff shall be entitled to receive from the Treasurer of the County of which he is Sheriff, such sum for each pay list, and such sum per diem for checking the same every day at the opening of the Court, and for certifying and returning the same to the Treasurer, as the County Council by By-law determines; and the Courts of Oyer and Terminer and General Gaol Delivery and of Assize and Nisi Prius, when holden at the same time and under the same precept and panel of Jurors, shall be one Court; and the County Court and General Quarter Sessions shall be one Court for the purposes of payment of Jurors, and the duty of calling over Jurors at the opening of the Court daily shall be performed by the Clerk of whichever of the said Courts respectively is first opened.

List of Jurors
to be called
over daily
when Court
opens.

144.—The Marshal or Clerk of Assize, the Clerk of the County Court or Clerk of the Peace, as the case may be, shall, at the opening of the Court, and before any other business is proceeded with, call over the names of the Petit Jurors, that the Sheriff or his Officer may check who are present or absent.

Jurors not
attending, to
be fined.

145.—A Petit Juror, not appearing when so called, shall not be entitled to any pay for the day on which he makes default, and shall, for every default he makes during the day, be liable to such a fine as to the Court seems meet.

FUND FOR PAYMENT OF JURORS.

FEES ON ENTRY OF NISI PRIUS RECORDS.

Sums to be
paid with
record when
entered for
trial.

146.—To the Clerk of Assize for every County, there shall be paid, with every record entered for trial or assessment, the sum of Three Dollars, and to the Clerks of the several County Courts the sum of One Dollar and Fifty Cents, which sums shall forthwith be paid over to the Treasurer, and shall form part of the fund from which Petit Jurors are to be paid.

Record not
to be entered
unless sum
is paid.

147.—No Record shall be entered for trial or assessment unless the sums before mentioned are first paid.

FEES IN CRIMINAL CASES.

The like in
criminal
cases where
either party
is liable to
pay costs.

148.—In all criminal cases in which by law the party prosecuting or the party prosecuted is liable to pay the costs of the prosecution, the Officer of the Court shall charge against and receive from the party so liable the sum of Three Dollars

over and above the sum to which he is otherwise liable, and such sum of Three Dollars shall form part of the fund for the payment of Petit Jurors, and shall forthwith be paid over by the Officer receiving it to the Treasurer of the County in which the prosecution has been carried on.

149.—All fines and penalties imposed upon and levied in the several Counties in Upper Canada, not payable to the Receiver General or to any Municipal Corporation, and all fines upon Jurors for non-attendance levied therein, shall be paid to the Treasurers of each of the said Counties respectively, and shall form part of the fund for the payment of Petit Jurors under this Act.

Certain fines to go towards payment of Jurors.

COUNTY COUNCILS TO SUPPLY DEFICIENCY.

150.—In case the sums appropriated by this Act are not sufficient to pay the said Jurors, the several County Councils shall raise and appropriate such sums of money as in their judgment are sufficient to pay the Petit Jurors according to the terms of this Act.

County Councils to provide funds for paying Jurors.

151.—The thirteen last preceding clauses of this Act being sections numbered from one hundred and thirty-eight to one hundred and fifty, both included, shall not be in force in, or apply to any County during the present year in which the County Council of such County shall not have appropriated a sum of money for the payment of Jurors; and every County Council which shall not have made such provision shall, at the regular meeting in January next, make provision for, and appropriate a sum of money for payment of Jurors for such County; and in every such County, until such provision is made, every Petit Juror shall be allowed the sum of twenty-five cents in every cause in which he is sworn as a Juror in any civil case in the Superior Courts or at the Assizes, and the sum of twelve and a half cents in cases in the County Courts, such fee to be paid by the Plaintiff or his Attorney, and to be accounted for in costs by the party charged with the payment thereof.

Certain clauses not to apply to Counties not providing such fund.

152.—In every County in which a Petit Jury fund is or may be provided, the Treasurer of such County shall give notice to the Sheriff of the County, who shall thereupon perform the duties imposed upon him under this Act.

County Treasurer to notify Sheriff when funds are provided.

153.—The Municipal Corporation of any County in Upper Canada of which a City forms part for judicial purposes, may demand and recover from the Municipal Corporation of such City a portion of the expenses incurred by such County,

Cities bound to contribute.

in any year, for the payment of Jurors, which portion shall be determined as follows:

Deduction to be made from total sum expended.

1. From the total sum expended in the County in any year, for the payment of Jurors and other fees and disbursements under this Act, there shall be deducted the sums paid to Jurors for attendance at the Courts of Quarter Sessions, and the sum actually received by the County in such year for fees and penalties, which under this Act are appropriated towards the payment of Jurors;

Portion to be finally borne by the city, &c.

2. Of the sum remaining after such deduction, the portion to be finally borne by the City and by the County respectively, shall be in proportion to the assessed value of all the rateable property in each, and the sum to be finally borne by the City shall be the sum to be repaid by the Municipal Corporation thereof to that of the County;

Assessed annual value, &c.

3. In comparing the value of the rateable property in any City and County for the purposes of this Act, the assessed annual value shall be held to be ten per cent. of the actual value.

Annual value of rateable property to be that shown by assessment rolls.

154.—The actual or annual value of rateable property in a City or County for the purposes of this Act, shall be that shewn by the Assessment-Rolls of each, for the year in which the expenses to be divided between them have been incurred, and the portion of such expenses to be finally borne by the City shall be payable to the County immediately after the close of each year.

The Council of Cities to raise the necessary funds by assessment, &c.

155.—The Common Council of any City shall raise by assessment the sum of money required by such City for the purposes of this Act, or shall pay such sum out of any moneys belonging to the City and applicable to municipal purposes generally.

22 VIC.—CAP. 111.

An Act to provide for the selection of a County Town for the County of Bruce.

[Assented to 16th August, 1858.]

Preamble.

19 & 20 Vic.
19.

WHEREAS by virtue of the Act passed in the session held in the nineteenth and twentieth years of Her Majesty's Reign intituled, *An Act to separate the County of Bruce from the County of Huron*, and of the Act passed in the now last Session of Parliament to explain the Act above cited, the Governor in Council has, by Proclamation dated the fifteenth day of

June, one thousand eight hundred and fifty-seven, appointed the Town of Walkerton, to be the County Town of the said County of Bruce; And whereas the Provisional Council of the said County, by their Petition, have prayed, that an Act may be passed to enable the Municipal Electors of the said County of Bruce to select a County Town for the said County that six places may be submitted for the selection of the said Electors, namely, the Villages of Kincardine, Southampton, Walkerton, Paisley, Greenock, and Inverhuron, all in the said County, and that one of the above named places, which shall receive the greatest number of votes of the said Electors, may be the County Town; *And whereas* the Inhabitants of the said County have by their Petition prayed that an Act may be passed to avoid the said Proclamation, declaring the Village of Walkerton the said County Town of Bruce, but that the selection of the County Town for the said County of Bruce shall be left to the decision of the Governor in Council; and that each Town or Village in the said County desiring to do so, shall present to the Governor in Council its respective claims in writing, and that from among them a choice shall be made; *And whereas* the Provisional Council of the said County of Bruce have refused to pass a By-law to raise the necessary funds for the erection of the County Buildings at Walkerton: *Therefore, &c.*

1.—The Proclamation of the Governor appointing Walkerton the County Town is hereby avoided. Proclamation avoided.

2.—The selection of the County Town shall be left to the decision of the Governor in Council, and a new Proclamation shall issue appointing the County Town in accordance with such decision. Selection left to Governor in Council.

3.—Each place desiring to do so, shall present its claims in writing to the Governor in Council, before the first day of October next, and the choice shall be made from among such places. Claims of places submitted.

4.—The Provisional Council of said County of Bruce, shall before any action shall be taken by the Governor in Council, vote the necessary supplies for the said County Buildings, and pass a valid By-law for raising and applying the same. Provisional Council to vote supplies before the choice is made.

5.—The decision of the Governor in Council shall be final. Decision to be final.

6.—This Act shall be deemed a Public Act. Public Act.

22 VIC.—CAP. 112.

An Act to limit the amount of Municipal Taxation on certain lands within the City of Hamilton.

[Assented to 15th August, 1858.]

Certain Lands of Honorable Malcolm Cameron not to be assessed above a certain value for ten years.

22 VIC.—CAP. 113.

An Act to change the limits of the Town of Collingwood.

[Assented to 16th August, 1858.]

Preamble.

WHEREAS the Municipal Council of the Town of Collingwood, and others, have, by their petitions represented that certain farm lots in the Township of Nottawasaga, have been erroneously included within the limits of the said Town, to the great inconvenience of the inhabitants, and have prayed that the said lots may be withdrawn from and declared to be without the said limits : *Therefore, &c.*

Certain lands
to be no
longer with-
in the Town.

1.—The lots numbers forty-one and forty-two, in the tenth Concession of the Township of Nottawasaga, shall hereafter be deemed to be without the limits of the Town of Collingwood and within the limits of the said Township, and shall be free from all rates and taxes heretofore imposed or to be imposed on property in the said Town by the Corporation thereof, any thing in the Act passed in the twentieth year of Her Majesty's Reign, intituled, *An Act to incorporate the Town of Collingwood*, to the contrary notwithstanding.

20 Vic. c. 96.

Public Act.

1.—This Act shall be deemed a Public Act.

22 VIC.—CAP. 114.

An Act to legalize certain By-laws of the Municipality of Berlin, and for other purposes.

[Assented to 16th August, 1858.]

By-laws in preamble legalized.

22 VIC.—CAP. 115.

An Act to annex certain lots in the Gore of Camden to the Townships of Euphemia and Dawn.

[Assented to 16th August, 1856.]

Part of the
said Gore
annexed to

1.—Upon, from and after the first day of January one thousand eight hundred and fifty-nine, lots sixteen, seventeen,

eighteen, and nineteen in the said Gore of Camden, and so much of lot fifteen therein as lies to the northward of the division line between the Townships of Zone and Euphemia, prolonged westward to the River Sydenham, shall be annexed to and form part of the Township of Euphemia and County of Lambton; and lots twenty, twenty-one, twenty-two, twenty-three, and twenty-four, in the said Gore of Camden, shall be annexed to and form part of the Township of Dawn and County of Lambton.

Euphemia
and part to
Dawn.

* 2.—Nothing herein contained shall affect or be construed to affect any taxes imposed for the payment of any debts contracted by the Municipality of the Gore of Camden, or by the Municipal Council of the County of Kent; but the said portions of the Gore of Camden, united by this Act to the Townships of Euphemia and Dawn, respectively, shall be liable to pay to the Treasurers of the Gore of Camden, and of the County of Kent respectively, in each and every year until such debts be fully discharged, the same amount as was collected within the same towards the payment of such debts for the year one thousand eight hundred and fifty seven.

Act not to
affect liabi-
lity for debts.

* It would seem that sec. 2 of 12 Vic. cap. 79, has been inadvertently repealed by 22 Vic., cap. 99. It reads as follows:

2.—*And be it, &c.*, That as well for the purposes of this Act and the said other Acts of Parliament hereinbefore mentioned and referred to, as for all other purposes whatsoever, so much of the said Township of Dawn as lies to the south of the south main branch of the River Sydenham, sometimes known as Bear Creek, shall be detached from the said Township of Dawn, and by and under the name of the Gore of Camden, be attached to and henceforth form a part of the said Township of Camden; that so much of the said Township of Sombra as lies to the south of the south of the said south main branch of the said river shall be detached from the said Township of Sombra, and by and under the name of the north Gore of Chatham be attached to and henceforth form a part of the said Township of Chatham; and that so much of the said Township of Zone as lies to the north of the northerly side line of lots numbers fifteen in the several concessions of the said Township of Zone, shall be detached from the said Township, and shall henceforth form a new Township by and under the name of the Township of Euphemia.

APPENDIX.

11. GEO. IV.—CAP. 36.

An Act to make valid certain marriages heretofore contracted, and to provide for the future solemnization of matrimony in this Province.

[The Royal Assent to this Bill was signified, by Message of His Excellency the Lieutenant-Governor, to the Legislative Council and Assembly of this Province, on the second day of March, 1831.]

WHEREAS doubts have arisen respecting the legality of certain marriages heretofore contracted and solemnized in this Province : And whereas the parties thereto, and their issue, may be subject to disabilities unless such marriages be confirmed by law ; in order therefore to afford relief to such persons, and establish the legitimacy of their issue: *Be it, &c.*, That the marriage or marriages of all persons, not being under any canonical disqualification to contract matrimony, that have been publicly contracted in this Province before any Justice of the Peace, Magistrate, or Commanding Officer of a Post, or before any Minister or Clergyman, before the passing of this Act, shall be and are hereby confirmed, and shall be considered good and valid in law ; and the parties to such marriages, and the issues thereof, shall be entitled to all the rights, and subject to all the obligations, resulting from marriage and consanguinity, any law, usage or custom, to the contrary in any wise notwithstanding.

Preamble.

See 33 Geo. III. c. 5 ; 38 Geo. III. c. 4 ; 59 Geo. III. c. 15 ; 2 Geo. IV. c. 11.

Former marriages confirmed.

2.—And to enable any person who may be desirous to preserve the evidence of their marriage, and of the birth of their children, *Be it, &c.*, That it shall and may be lawful, at any time within six years after the passing of this Act, for any Justice of the Peace, at the request of either of the parties, to administer the following oath, or affirmation, as the case may be, to the husband and wife, or either of them: “ I A. B., do solemnly swear, or affirm, as the case may be, that I did publicly intermarry with C. D. at —, on the — day of —, in the year of our Lord —, and that there is now — living issue of the said marriage, as the case may be, T. B. born on the — day of —, M. B. born on the — day of — and

Method of preserving testimony of former marriages.

Former marriages not to be rendered valid where a subsequent marriage has been legally contracted.

Ministers of certain denominations authorized to solemnize matrimony.

See 10 & 11 Vic. c. 18, and 20 Vic. c. 66.

Certificates to be obtained from the Quarter Sessions by Ministers, before they can solemnize matrimony.

See 18 Vic. c. 129.

that such marriage was solemnized by M. D. of the District of — which form of attestation shall be subscribed by the party making the same, and certified under the hand and seal of the Justice administering the said oath or affirmation, who shall be entitled to receive therefor one shilling; and it shall be the duty of the Clerk of the Peace, upon payment of the sum of two shillings and sixpence, to enter and record such attestation, duly certified as aforesaid, in a register or book to be by him kept for that purpose; and such Register, or an attested copy thereof, shall be considered sufficient evidence of such marriage, and of the birth of the said children; and the said Clerk of the Peace is hereby required to give such copy duly certified to any person demanding the same upon payment of two shillings. *Provided always*, that nothing in this Act contained shall extend, or be construed to extend, to make valid any marriage illegally solemnized, when the parties to such illegal marriage, or either of them, shall have subsequently contracted matrimony according to law.

3.—*And be it, &c.*, That it shall and may be lawful for any Clergyman or Minister of any church, society, congregation or religious community of persons, professing to be members of the Church of Scotland, Lutherans, Presbyterians, Congregationalists, Baptists, Independents, Methodists, Menonists, Tunkers or Moravians, who shall be authorized, in manner hereinafter mentioned, to solemnize the ceremony of marriage within this Province between any two persons, neither of whom is under any legal disqualification to contract matrimony.

4.—*Provided, and be it, &c.*, That no person shall be taken or deemed to be a Clergyman or Minister of such church, society, congregation, or religious community, within the intent and meaning of this Act, who shall not have been regularly ordained, constituted or appointed, according to the rites and form of such church, society, congregation, or religious community, of which he professes to be a Clergyman or Minister, and unless he shall be a subject of His Majesty, and shall appear before the Justices of the *District* in which he shall reside, in General Quarter Sessions assembled, and unless he shall produce proof of his ordination, constitution or appointment as such Minister, and shall then and there take the oath of allegiance to His Majesty, which oath the said Court shall then and there administer; and thereupon, if it shall appear to the Majority of the Justices then present that he has been regularly ordained, constituted or appointed, as aforesaid, they are hereby authorized and required to grant him a certificate under the seal of the Court, and signed by the Chairman and the Clerk of the Peace, for

which the said Clerk shall be entitled to receive the sum of five shillings, certifying him to be a Minister or Clergyman of such church, society, congregation, or religious community; which certificate may be in the following form:

"Be it remembered, that at the General Quarter Sessions of the Peace, holden at — in and for — *District* on the — day of — in the year of our Lord —, before A. B. and others, Esquires, Justices of our Sovereign Lord the King, assigned to keep the Peace in the said *District*, came C. D. of —, who professes to be a Minister or Clergyman of the church, society, congregation or religious community, (as the case may be) it appeared to a majority of the Justices that he the said C. D. was duly ordained, constituted or appointed, as the case may be, a Minister or Clergyman of the said church, society, congregation, or religious community.

"E. F., *Chairman*.

"G. H., *Clerk of the Peace*."

5.—*Provided also, and be it, &c.*, That no such Minister or Clergyman shall at any time celebrate the ceremony of marriage between any two persons as aforesaid, unless such their intention of marriage shall have been declared openly and in an audible voice in the church, chapel, meeting-house, or place of public worship of such congregation, or religious community, on three several Sundays, either in some intermediate part of the service, or immediately before it began, or immediately after it ended, together with the number of times the said declaration shall have respectively been made, or unless such Minister or Clergyman shall have been duly authorised by licence under the band and seal of the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, to celebrate the said ceremony between the two persons therein named.

Banns to be published or licence obtained before the solemnization of any marriage.

6.—*And be it, &c.*, That every Minister, or Clergyman, or Justice of the Peace, who has been or shall be authorised to celebrate marriage by virtue of this Act, or any other Act of this Province, shall if required at the time by either of the parties married by such Minister, Clergyman, or Justice of the Peace, give a certificate under his hand of such marriage, specifying in such certificate the names of the parties, the time, and the names of two or more persons who witnessed such marriage, and whether such marriage has been solemnized by licence or by publication of banns; and also once in every twelve months return a certified list under his hand of all marriages by him solemnized within the said term of twelve months, or since his last preceding return, to the Clerk of the Peace in and for the *District* in

Certificate of marriage to be given by the person solemnizing the same.

Return of marriages to be made annually to the Clerk of the Peace.

Clerk of the
Peace to
record such
return,
which shall
be evidence.

Persons neg-
lecting to
make re-
turns to
forfeit £40.

which such marriages shall have been respectively solemnized, specifying in such list the names of the parties so by him married, the respective dates of such marriages, and the names of two or more persons who witnessed each of said marriages, and whether such marriages, respectively, shall have been solemnized by licence or publication of banns; and such Minister, or Clergyman, or Justice of the Peace, shall, at the time of returning a certified list as aforesaid, pay to the said Clerk of the Peace the sum of two shillings and six pence; and it shall thereupon be the duty of the said Clerk to record the said certified list in the register or book required by law to be kept by him, of the registry of certified marriages of members of the Church of Scotland, Lutherans, Congregationalists, Baptists, Independents, Methodists, Menonists, Tunkers, Presbyterians or Moravians; and such register, or a certified copy thereof, shall be considered in case of the death or absence of the witnesses to any marriage, a sufficient evidence of the said marriages; and the said Clerk of the Peace is hereby required to give such copy of the registry of any of the said marriages, duly certified, to any person demanding the same, upon the payment of two shillings; and if any such Minister, or Clergyman, or Justice of the Peace, shall refuse or neglect to return such certified list as aforesaid, he shall forfeit and pay the sum of forty pounds, to be recovered by action of debt in His Majesty's Court of King's Bench, one moiety thereof to the use of the informer who shall sue for the same, and the other to be paid to the Receiver-General of this Province, to and for the use of His Majesty, His Heirs and Successors, for the public uses of this Province and the support of the Civil Government thereof, to be accounted for to His Majesty through the Lords Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall direct.

FORM OF BY-LAW

TO CONTRACT A DEBT BY BORROWING MONEY (UNDER SEC. 222).

No. —.

"A By-Law to raise by way of Loan the sum of — for the purposes therein mentioned."

WHEREAS the Municipal Council of the — of — (*Name County, City, Town, or Incorporated Village, &c.*) have (*here recite in brief and general terms the object for which the loan is required*, as, "have resolved to make a Plank Road from, &c.")

And whereas, to carry into effect the said recited object, it will be necessary for the said Municipal Council to raise the sum of — in the manner hereinafter mentioned.

And whereas it will require the sum of — to be raised annually by special rate for the payment of the said loan or debt and interest, as also hereinafter mentioned.

And whereas the amount of the whole ratable property of the said Municipality, irrespective of any future increase of the same (*and where the money to be raised, or any part thereof, is intended to be invested in any work* "and irrespective of any income in the nature of tolls, interest, or dividends, from the said work," or "from any stock, shares or interest in the said work," &c.,) and also irrespective of any income to be derived from the temporary investment of the Sinking Fund hereinafter mentioned, or any part thereof, according to the last revised assessment roll of the said Municipality, being for the year one thousand eight hundred and — was — pounds.

And whereas for paying the interest and creating an equal yearly Sinking Fund for paying the said sum of — and interest, as hereinafter mentioned, it will require an equal annual special rate of — cents in the pound, in addition to all rates to be levied in each year.

Be it therefore enacted by the Municipal Council of the — of — (*as before*)

1. That it shall be lawful for the Reeve (*or other Head of the Municipality, describing him by his name of office*) to raise by way of loan from any person or persons, body or bodies corporate, who may be willing to advance the same upon the credit of the debentures hereinafter mentioned, a sum of money not exceeding in the whole the sum of — and to cause the same to be paid into the hands of the Treasurer (*or "Chamberlain," as the case may be*) for the purposes and with the object above recited.

2. That it shall be lawful for the said Reeve (*or as before*) to cause any number of debentures to be made for such sums of money as may be required, not less than one hundred dollars each (*or if in aid, &c., of a*

railway, "not less than twenty dollars" each) (a) and that the said debentures shall be sealed with the seal of the said Municipal Council, and be signed by the said Reeve (or by some other person, naming him, authorized by law to sign the same). (b)

3. That the said debentures shall be made payable in twenty (or if the debt be contracted for gas or water works, "thirty") (c) years at furthest from the day hereinafter mentioned for this By-law to take effect, at the office of the Treasurer (or "Chamberlain," as the case may be, or elsewhere if thought fit) of the said Municipality, and shall have attached to them coupons for the payment of interest.

4. That the said debentures shall bear interest at and after the rate of six per cent. per annum, from the date thereof; which interest shall be payable on the (naming days, yearly, half yearly or quarterly, as the case may be) at the office of the Treasurer aforesaid (or elsewhere, as the Council may see fit).

5. That for the purpose of forming a Sinking Fund for the payment of the said debentures, and the interest at the rate aforesaid to become due thereon, an equal special rate of — d. in the pound, shall, in addition to all other rates, be raised, levied and collected in each year, upon all the ratable property in the said Municipality, during the continuance of the said debentures or any of them.

6. That this By-law shall take effect and come into operation upon the — day of — (this day to be a day within the financial year in which the By-law is passed, and to be fixed at the time of the passing thereof, unless the debt to be created be for the purchase of public works). (d)

(a) Sec. 332, subsec. 3.

(b) Sec. 209; sec. 332, subsec. 4.

(c) Sec. 222, subsec. 2.

(d) Sec. 222, subsec. 1.

IN THE
COURTS OF QUEEN'S BENCH AND COMMON PLEAS.

MICHAELMAS TERM, 14TH VICTORIA.

WHEREAS by an Act passed by the Parliament of this Province in the twelfth year of Her Majesty's Reign (chap. 81), entitled, "An Act to provide by one general law for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada," power was given to Her Majesty's Court of Queen's Bench in Upper Canada, and the several Judges thereof, to try and decide all matters relating to contested Municipal Elections as therein provided; And whereas by the Act of the last Session of Parliament (chapter 64), entitled, "An Act for correcting certain errors and omissions in the Act of the Parliament of this Province, passed in the last Session thereof, intituled, '*An Act to provide by one general law for the erection of Municipal Corporations and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada,*'" 12 Vic. 81, sec. 146, et. seq. for amending certain of the provisions of the said Act, and making some further provisions for the better accomplishment of the object thereof," the powers conferred on the said Court and Judges have been extended to the Court of Common Pleas and the Judges thereof, and additional powers have been thereby given in the premises to the said Courts and Judges respectively; and it being among other things in effect enacted, that it should and might be lawful for the Judges of Her Majesty's two Superior Courts of Common Law at Toronto, or the majority of them, by any rule or rules to be by them for that purpose made, from time to time in term time, as occasion may require, to settle the forms of all such writs, whether of summons, certiorari, mandamus, execution, or of or for whatever other kind or purpose, as are authorised by the said Act—therefore, in order to settle the said forms, and to regulate the practice and proceedings in the said Courts in the matters aforesaid,

It is ordered, that the following Rules be substituted for the Rules made in Hilary term last by the Judges of the said Court of Queen's Bench for the trial of such elections; and that the forms of such writs and the practice to be observed with respect to the matters aforesaid shall be as follows, that is to say:—

1. The relator entitled to complain of any election shall in person or by attorney, by written motion, apply to one of the said Courts of Queen's Bench or Common Pleas in term time, or to the Judge presiding in Chambers in vacation, for a writ of summons in the nature of a *quo warranto*, which motion must, according to the statute, be made within six weeks after the election complained against, or within one month after the person whose election is questioned shall have accepted the office, and not afterwards.

2. Such motion shall be founded—1st. On a written statement, which shall be annexed to the motion-paper, setting forth the interest which the relator has in the election, as candidate or voter, and setting forth also specifically, under distinct heads separately numbered, (if there be more than one), all such grounds of objection as he intends to urge against the validity of the election complained against and in favor of the validity of the election of the relator or another, or other person or persons, when he shall claim that he or they or any of them have been duly elected; and at the foot of such statement there shall be an affidavit made and signed by the relator, that he believes such grounds to be well founded: And 2ndly. On an affidavit or affidavits of the relator, or other person or persons, setting forth fully and in detail the facts and circumstances which shall support the application.

The statement of the relator may be after the following form, *mutatis mutandis* :—

STATEMENT OF THE RELATOR.

IN THE QUEEN'S BENCH (or COMMON PLEAS.)

The statement and relation of —, of —, who complaining that —, of —, (*here inserting the names and additions of all, if more than one person*) hath (*or have*) not been duly elected, and hath (*or have*) unjustly usurped and still doth (*or do*) usurp the office of —, in the Town of —, or *Township of —, as the case may be*, in the County (*or United Counties*) of —, under the pretence of an election held on —, at —, in the said County (*or United Counties*). [And (*when it is claimed that the relator, or the relator and another, or others, ought to have been returned*), that (*here name the party or parties so entitled*) was (*or were*) duly elected thereto, and ought to have been returned at such election], and declaring that he the said relator hath an interest in the said election as a —, states and shews the following causes why the election of the said —, to the said office should be declared invalid and void. [And (*when so claimed*) the said — (*naming the party or parties*) be duly elected thereto].

First—That (*for example*) the said election was not conducted according to law in this, that, &c.

Second—That the said — was not duly or legally elected or returned in this, that, &c.

Third—That, &c.

Signed by the relator in person, or by C. D. his attorney.

NOTE.—Where the intention of the relator is to impeach the election as altogether void, in which event, as the office cannot be claimed for any other or others, the portion of the above and succeeding forms relating thereto should be omitted.

3. If the Court or Judge applied to shall find sufficient ground for issuing a writ of summons in the nature of a *quo warranto*, then, upon such recognizance being entered into as the Act directs and a proper affidavit of justification made, and the sufficiency of the sureties allowed by such Court or Judge, a writ shall issue, sealed and tested as other writs of summons in cases between party and party, and attached thereto shall be a copy of the relator's statement of objections and grounds, and of the names and additions of the persons who shall have made the affidavits upon which the writ was moved.

The recognizance and fiat for summons, and the writ of summons in these Rules mentioned, may be in the following forms:—

FORM OF RECOGNIZANCE.

IN THE QUEEN'S BENCH (or COMMON PLEAS.)

UPPER CANADA, County (or *United Counties of* —). Be it remembered, that on the — day of —, in the year of our Lord one thousand eight hundred and —, before me — of —, Chief Justice (or a *Justice, or a Commissioner for taking bail*) in her Majesty's Court of Queen's Bench (or *Common Pleas*) for Upper Canada, cometh —, of —, of —, and —, of —, and acknowledge themselves severally and respectively to owe to —, of —, (*here inserting the name or names of the person whose election is complained against*), as follows—that is to say, the said —, the sum of fifty pounds, and the said — and — the sum of twenty-five pounds each, upon condition that if the said — do prosecute with effect the writ of summons in the nature of *quo warranto* to be issued on an order or fiat to be made at the instance and upon the relation of the said —, against the said —, to shew by what authority he (*or they*) the said — claims (*or claim*) to be (*here state the office so claimed*) and why he (*or they*) the said — should not be removed therefrom, [and (*where so claimed by the relator*) why he the said relator (*or the party or parties entitled*) should not be declared duly elected, and be admitted to the said office]; and if the said — do pay to the said — all such costs as the said Court of — (*or the Judge presiding in Chambers, at the City of Toronto, in the County of York,*) shall direct in that behalf, then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged the day and year first above mentioed,

Before me —

FORM OF A JUDGE'S FIAT ORDERING A WRIT TO ISSUE IN VACATION IN THE QUEEN'S BENCH (OR COMMON PLEAS).

Upon reading the statement of —, of —, in the County of —, complaining of the undue election and usurpation of the office of —, by —, [and (*if so, stating*) that the said — (*relator or other person named*) was (*or were*) duly elected, and ought to have been returned to the said office], and upon reading the affidavits filed in support of the said statement; and also upon reading the recognizance of the said —, and sureties therein named, and the same being allowed as sufficient; I do order that a writ of summons do issue, calling upon the said — (*the party whose election is*

complained of) to shew by what authority he (*or they*) the said — (*the party whose election is complained of*) now exercises or enjoys (*or exercise and enjoy*) the said office [and why (*if so claimed*) he (*or they*) the said —, should not be removed therefrom, and the said — (*relator or other person or persons named*) should not be declared duly elected, and be admitted thereto].

Dated this — day of —, 18—.

NOTE.—If by Rule of Court, the above form should be modified accordingly.

FORM OF WRIT OF SUMMONS.

UPPER CANADA.

VICTORIA, *by the Grace of God, &c.*

To —, of —, &c., in the County (*or United Counties*) of —.

WE command you (*and each of you*) that you (*and each of you*) be and appear before the Chief Justice or other Justice of our Court of Queen's Bench or Common Pleas for Upper Canada, presiding in Chambers, at the Judges' Chambers in our City of Toronto, on the eighth day after the day on which you shall be served with this writ, then and there to answer and shew to such Chief Justice or Justice by what authority you claim to use, exercise or enjoy the office of —, which office, upon the relation of —, having as he says an interest in the election to the said office as a —, we are informed that you have usurped and do still usurp [and that (*if so claimed*) the said — (*relator or party or parties mentioned*) was (*or were*) and should have been declared duly elected and admitted thereto], and further to do and receive all those things which our said Chief Justice, or Justice, shall thereupon order concerning the premises.

WITNESS, the Honorable —, Chief Justice of our said Court of — (*or other Justice in whose name the writ is tested*), at Toronto, this — day of —, 18—, and in the — year of our reign.

FORM OF NOTICE TO BE ENDORSED ON OR ANNEXED TO THE WRIT OF SUMMONS.

IN THE QUEEN'S BENCH (*or COMMON PLEAS*).

The Queen, upon the relation of —, against —.

To — and —, named in the within (*or annexed*) writ of summons

The within (*or annexed*) writ of summons has been issued at my instance and relation; and a statement concerning the premises, whereof a copy is hereunto annexed, is filed in the office of the Clerk of the Crown in this Court (*or with the Clerk in Chambers, at the City of Toronto*), together with affidavits supporting the same; and the names and additions of the deponents to the said affidavits are hereunder written. And you are served with the said writ of summons to the intent that you do appear and answer, as therein commanded, or otherwise judgment will be given against you by your default, and your election to the therein mentioned office will be declared invalid, and you will be removed therefrom [and the said — (*the relator, or —, the party or parties, if any, alleged to be entitled*) therein

named be declared duly elected, and will be admitted thereto in your place].

A. B. in person,
or by
C. D. his Attosney.

The above mentioned deponents are:—

—, of —.
—, of —.

MINUTE OF THE DAY OF SERVICE TO BE WRITTEN ON THE
SUMMONS.

Served this — day of —, 185—.

4.—A copy of such summons, and of the paper attached thereto, with a notice on the back of the copy of summons, according to the foregoing form, may be served by any literate person, who shall, within twenty-four hours after such service, make a minute on the writ of the time of serving the same; and upon the return of the writ, the party or parties summoned may appear either in person or by attorney; and the manner of appearance shall be by indorsing on the back of the relator's statement attached to the motion paper:—"the within named C. D., &c., appears in person (or by attorney, as the case may be) to answer the grounds of objection to his election, which are stated within."

5.—If upon the return day of the summons the party or parties, having been duly served, shall not appear, then, on proof of such service by affidavit, according to the form subjoined, the Judge sitting in Chambers may, before rising on that day, direct an entry to be made as to such party or parties as make default, on the back of the relator's statement, thus: "The within named C. D. (and E. F.), being duly summoned, hath (or have) not appeared to answer to the matters within objected." Which entry shall be dated on the day of the return, and may be made on any subsequent day, if omitted to be made on that day.

FORM OF AFFIDAVIT OF SERVICE,

When made personally, if service special under the 148th clause of the Statute (12 Vic., cap. 81), the Affidavit to be modified accordingly.

See 22 Vic. cap. 99, sec. 198, subsec. 7.

IN THE QUEEN'S BENCH (or COMMON PLEAS.)

The Queen, on the relation of —, against —.

—, of —, in the —, maketh oath and saith, that he did, on the — day of —, personally serve the above named defendant (or defendants) with the annexed writ of summons, by delivering to him (or each of them) a true copy thereof, on which said copy was indorsed a written notice, a copy whereof is hereto annexed, and to which said copy (or copies respec-

tively) of the said writ was annexed a written copy of a statement of the above named relator, a copy of which said copy of statement is also hereunto annexed: and the deponent further saith, that the minute (or minutes) of the said service, written on the said writ of summons, was (or were) so written by this deponent within twenty-four hours after such service.

Sworn at —, in the County of —, this — day of — 185—.

Before me —.

6.—When it shall appear to the court or judge that the returning officer should be made a party, a writ of summons shall issue to him, in the following form, upon a rule of court to issue for that purpose, or upon the fiat, of the judge, which summons shall be served with the like papers annexed, and the service thereof proved in like manner as is provided for other writs of summons, as aforesaid: and the party served shall appear and enter his appearance within the same time after service, and in the same manner; and in default thereof, he shall be liable to have judgment pass against him in his absence, as in the case of any other defendant making a like default, and be dealt with by attachment, execution or otherwise, as the circumstances of the case may require.

FORM OF WRIT OF SUMMONS TO A RETURNING OFFICER.

UPPER CANADA.

VICTORIA, *by the Grace of God, &c.*

Whereas upon the relation of —, in our Court of (*Queen's Bench or Common Pleas*), —, it hath been ordered that a writ of summons should issue to —, to shew by what authority he (or they) claims or exercises (or claim or exercise) the office of —. And whereas it appears to our Justices of our Court of (*Queen's Bench or Common Pleas*), before whom the said writ hath been made returnable, (or as the case may be), that you were the Returning Officer by whom the said — hath (or have) been returned as duly elected to the said office, and that it is proper you should be made a party to the proceeding aforesaid; These are therefore to summon you to be and appear before the Chief Justice or other Justice of our Court of (*Queen's Bench or Common Pleas*) for Upper Canada presiding in Chambers, at the Judges' Chambers, in our City of Toronto, on —, then and there to answer such matters and things as shall then and there be objected against you, and further to do and receive all those things which said Court or said Justice shall thereupon order concerning you in the premises.

Witness, &c.

7.—In case of default of appearance by any party summoned as aforesaid, the judge recording the same may, as to such as make default, proceed *ex parte*; and as to such as shall have appeared, as is herein provided, proceed to determine the validity of the election or elections complained of, and also (if so claimed) of the election of the person or persons alleged to have been duly elected, and give judgment thereon, or he may, in his discretion, with or without any application for that

purpose, and having regard to the distance of the place where the party was served, or other circumstances, appoint a further day for the appearance of the party or parties summoned, of which an entry shall be made and signed by the judge to the following effect, at the foot of the entry of non-appearance on the back of the relator's statement:—"Whereupon a further day is given to the said —, (or the said— and —,) to appear on," &c.

On which day, or as soon after as may be convenient, if no further postponement shall be in like manner granted, the case may be heard and disposed of in like manner as if the same had been determined and judgment given thereon, without granting a further day for appearance.

8.—At any time before the hearing, any party may have copies of the affidavits filed, on paying for the same.

9.—At the hearing the relator shall not be allowed to object to the election of the party or parties complained against, or to support the election or elections of the person or persons alleged to have been duly elected, on any ground not specified in the statement on which the summons was moved; but it shall nevertheless, be in the discretion of the judge, if he shall think fit, to entertain upon his own view of the case any substantial ground of objection, to or in support of the validity of the election of either or any of the parties which may appear in the evidence before him.

10 —When the party or parties summoned has or have appeared, no more formal answer need be made by him or them to the relator's case, than by affidavits filed in answer; but the judge before whom the case shall be pending may, in his discretion require from either or any party further affidavits, or the production of any such evidence as the law allows.

11.—In case of disclaimer under the statute 13 & 14 Vic. ch. 64, schedule A. No. 23, the provisions therein contained, and in sub-proviso No. 6 are to be observed. (See non 22 Vic. c. 99, sec. 198, subsec. 12.)

12.—In case a necessity shall appear for sending an issue to be tried by a jury, the writ for that purpose may be in the following form, and shall issue on the fiat of the Judge directing the same, and bear date on the day of its issuing:

WRIT OF TRIAL.

[L. S.] Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Judge of the County Court of the County of —

GREETING:

Whereas, upon the trial of the validity of an election of —, chosen upon the — day of —, to be — for the Township of —, (or as the

case may be) in the County of —, and which election hath been complained of by E. F., as the relator, alleging (*as the case may be*) that he himself, or that he and C. D., &c., or that C. D., &c., was or were duly elected, and ought to have been returned, it hath become material to ascertain whether (*here stating concisely the issues to be tried*); and whereas it is desired by —, our Chief Justice (*or Justice*) of our Court of Queen's Bench (*or Common Pleas*), before whom the same is pending, that the truth of such matters as aforesaid may be found by a jury: We do, therefore, pursuant to the statute in such case made and provided, command you, that by twelve good and lawful men of the County of —, who are in nowise akin to the said E. F., the relator in the said case, or to the said (*the other party or parties, naming him or them*), and who shall be sworn truly to try the truth of the said matters, you do proceed to try the same accordingly; and when the jury shall have given their verdict on the matters aforesaid, we command you that you do forthwith make known to our said Chief Justice (*or Justice*) what shall have been done by virtue of this writ, with the finding of the jury hereon indorsed.

WITNESS, the Honorable —, Chief Justice (*or Justice*) of our said Court, at Toronto, this — day of —, in the — year of our reign.

FORM OF ENDORSEMENT OF VERDICT THEREON.

I hereby certify, that on the — day of —, before me, L. M., Judge of the County Court of the County (*or United Counties*) of —, came as well the within named relator as the within named (*the other party or parties*) by their attorneys (*or as the case may be*), and the jurors of the jury, by me duly summoned as within, commanded, also came, and being sworn to try the matters within mentioned on their oath, said that, &c.

13.—When the judge before whom any such case shall be pending, shall have determined the same, either *ex parte* in case of default, or on hearing the parties, or partly *ex parte* and partly on hearing the parties, he shall make up and annex to the statement of the relator, and to the affidavits and other papers filed in the case, a written judgment, attested by his signature, and dated on the day of the same being signed, in which it shall be sufficient to state concisely the ground and effect of the judgment, which judgment may be at any time amended by the same judge, in regard to any matter of form. And the following may be the form of judgment when in favour of the relator:

IN THE QUEEN'S BENCH (*or COMMON PLEAS*).

The Queen, on the relation of —, against —.

Be it remembered, that on the — day of —, in the year of our Lord one thousand eight hundred and —, at the Judge's Chambers in the City of Toronto, before me —, Chief Justice (*or Justice*) of Her Majesty's Court of Queen's Bench (*or Common Pleas*), came as well the above named relator by —, his attorney, as the above named — by his (*or their*) attorney, and service of the writ of summons hereunto annexed having been duly proved upon affidavit, and upon the said day and upon other days thereafter, at his chambers aforesaid, having heard and read the statement and proofs

of the said relator, touching and concerning the usurpation by him alleged against the said — of the office of — in the said writ of summons mentioned [and (*if so*) the election of (the party or parties named) thereto], and the answers and proofs of the said —, and having heard the said parties by their counsel (*or as the case may be*), and upon due consideration of all and singular the premises now, that is to say, this — day of —, in the year aforesaid, I do adjudge and determine:

First.—That the said relator had, at the time of his making his aforesaid complaint, an interest in the election to the said office of — as a —.

Second.—That, &c.

Third.—That, &c.

Fourth.—That the said — hath (*or have*) usurped, and doth (*or do*) still usurp the said office, and that he (*or they*) be removed therefrom [or that the election of — to the said office was void, and that he (*or they*) be removed therefrom (*as the judgment may be*)]. And that the said relator (*or the said* [naming the party or parties whose election is affirmed, when he or they are adjudged to be entitled to the said office]) was (*or were*) duly elected thereto, and ought to have been returned, and is (*or are*) entitled in law to be received into, and to use, exercise and enjoy the said office. And I do adjudge and determine that the said — do not in any manner concern himself (*or themselves*) in or about the said office, but that he (*or they*) be absolutely forejudged and excluded from further using or exercising the same, under pretence of the said election [and further that the said (naming the relator or parties whose election is affirmed) be (*or be respectively*) admitted to the said office in his (*or their*) place or places]; And I do further order, adjudge and determine, that the said relator do recover against the said — his costs and charges by him in and about the said relation and the prosecution thereof expended, to be taxed in the said Court.

All which the said writ of summons, and the said judgment, and the statements, answers and proofs of the said relator and of the said —, and all other things had before me touching the same, I do hereby certify and deliver into the said Court, according to the form of the statute in such case made and provided. E. F., J.

And the following may be the conclusion of a judgment for the defendant, to follow the word *affidavit*, in the foregoing form:

Thereupon now at this day, that is to say, on the — day of — aforesaid, at the Judges' Chambers, at Toronto aforesaid, all and singular the relation and proofs of the said relator, and the answers and proofs of the said — being seen and fully understood, I do consider and adjudge that the said office of — so claimed by him (*or them*) the said — be allowed and adjudged to him (*or them*), that the said — be dismissed and discharged of and from the premises above charged upon him (*or them*) and also that he (*or they*) the said — do recover against the said relator his [*or their*] costs by him, [*or them respectively*] laid out and expended in defending himself [*or themselves*] in this behalf. All which, &c. [as in the judgment for the relator].

When the returning officer is made a party, the judgment to be modified accordingly.

14.—When the judgment of the Judge in Chambers shall have been returned into court according to the statutes, and after the end of

four days after such return, and if no rule shall have been granted to set aside or amend the judgment, the relator or person (or persons) in whose favour the judgment shall have been given, shall be at liberty to tax his or their costs, and the following entry shall be made under or upon the record of the judgment, after which execution may issue:—

“Afterwards that is to say, on the — day of —, in the — year of the reign of our Lady the Queen, cometh, the said —, and prayeth that his [or their] said costs, so as aforesaid adjudged to him [or them], be taxed and assessed according to the form of the statute in such case made and provided, and the said costs of the said —, in and about his (or their) prosecution [or defence] aforesaid, and [when the Returning Officer is a party of the said —, in and about his defence aforesaid], so as aforesaid adjudged to him [or them], are now here accordingly taxed and assessed as follows, that is to say, the costs of the said — at the sum of — [and the costs of the said — (when Returning Officer entitled thereto), at the sum of —], and the said —, in mercy, &c.”

15.—The writs of certiorari and mandamus which it may become necessary to issue in any such case, will be in the common form of such writs, the command therein contained being suited to the circumstances of each case, and, when applicable, the following form may be used:

FORM OF A WRIT OF MANDAMUS,

To remove the person (or persons, being less than the whole number of members of any Municipal Corporation) whose election is adjudged invalid, and to admit the person or persons adjudged lawfully elected.

Victoria, &c.

To the Municipal Corporation of — (the town, township, or city of.)

Whereas on the — day of — in the year of our Lord one thousand eight hundred and — at the Judges' Chambers, in the City of Toronto, before — Chief Justice (or one of the Justices) of our Court of Queen's Bench (or Common Pleas) for Upper Canada, it was by the said Chief Justice (or Justice) adjudged and determined that — of — had usurped, and did then usurp, the office of — [and that — was (or were) duly elected thereto, and ought to have been returned, and was (or were) entitled in law to be received into, and to use, exercise and enjoy the said office], all which has, by the said Chief Justice (or Justice) been duly certified into our Court of Queen's Bench (or Common Pleas), pursuant to the statute in that behalf. Now, we being willing that speedy justice be done in this behalf, as it is reasonable, command that the said (the person or persons, naming him or them, whose election has been declared invalid) do not in any manner concern himself (or themselves) in or about the said office, but that he (or they) be absolutely forejudged, removed and excluded from further using or exercising the same, under pretence of his (or their) election thereto.* [And we do further command that the said (the person or persons, naming him or them, who has or had been adjudged lawfully elected) be forthwith admitted, received and sworn into the said office, to use, exercise and enjoy the same.] And we do hereby command you and every of you to obey, observe, and do all and every act, matter

and thing that may be necessary, on the part of you or any of you in the premises, according to the purport, true intent and meaning of these presents, and of the statutes in that behalf, and that you make known to our Court of Queen's Bench (or Common Pleas) at Toronto, on the — day of — how this writ shall have been executed.

Witness, &c.

FORM OF A WRIT OF MANDAMUS,

When neither the election of the person or persons (less than the whole number of members of the Municipal Corporation) who has (or have) been returned, nor the person or persons claimed to be returned is (or are) held valid, and for a new election.

Victoria, &c.

To the Municipal Corporation of — and to any returning officer or other person or persons to whom it shall of right belong to do any act necessary to be done, touching the election hereinafter commanded to be held :

Whereas (as in the last precedent to the asterisk, omitting the part between brackets, and then proceed as follows :) and we do further command that you, the said Municipal Corporation, and any returning officer or other person or persons, or such of you to whom the same shall of right belong, that you do, pursuant to and according to the statute in that behalf, cause an election to be as speedily held as shall be lawful, for the election of a person (or persons) in the place or stead of the said — who has (or have) been removed as aforesaid ; and that you, or such of you to whom the same doth of right belong, do administer to the person (or persons) who shall be so elected, the oath (or oaths) if any, in that behalf by law directed ; and that you admit, or cause to be admitted, such person (or persons) so elected into the said office, and that you, the said Municipal Corporation, do show how this writ shall have been executed to our Court of Queen's Bench (or Common Pleas), at Toronto, on the — day of —.

Witness, &c.

FORM OF A WRIT OF MANDAMUS,

Directed to the Sheriff, where the elections of all the members of any Municipal Corporation have been adjudged invalid, and for the admission of those adjudged to have been legally elected.

Victoria, &c.

To the Sheriff of the County (or United Counties) of —, Greeting :

Whereas (the same as in the first precedent of a mandamus, to the end of the words "adjudged and determined," then say) that the election (or elections) of all the members of the Municipal Corporation of —, returned as elected at the election (or elections) of members of the said corporation held (describing the time or times and place or places of such election [or elections]) was (or were) invalid or void in law, and that (naming them all) had usurped (proceeding as in the first precedent, adopting the plural form, to the asterisk, and then as follows) : and we do hereby further command you, the said sheriff, that you do, pursuant to the statute in that be-

half, admit and return and swear into, or cause the said (naming the per-
adjudged to have been duly elected) to be forthwith admitted or returned,
and sworn into the said office, to use, exercise, and enjoy the same, and
that you do and perform, or cause to be done and performed, all and every
act or acts, thing or things necessary to be done and performed in the pre-
mises : and we hereby command and strictly enjoin all and every person or
persons to whom the same shall lawfully belong, to be aiding and assisting
you, and to do all and every lawful and necessary act to be done by him or
them in the premises, according to the purport, true intent and meaning of
these presents, and of the statutes in that behalf ; and how you shall have
executed this writ make known to our Court of Queen's Bench or Common
Pleas, at Toronto, on the — day of — next, and have then there this
writ.

Witness, &c.

FORM OF A MANDAMUS,

*To the Sheriff, when the elections of all the members of any Municipal Corpo-
ration have been adjudged invalid, and requiring others to be elected.*

Victoria, &c.

To the Sheriff, &c. (as in the last precedent to the asterisk, omitting the
part between the brackets, and adopting the plural form, then concluding
as follows :) and that you do every act necessary to be done by you in
order to the due election and admission of members of the said corporation,
in the place and stead of the persons whose elections have been so declared
invalid ; and we hereby command, and strictly enjoin all and every person
and persons (continuing as in the last precedent to the end).

Witness, &c.

The form of writs of execution for costs in any such case may be as
follows :—

FI. FA. AGAINST DEFENDANT FOR RELATOR'S COSTS.

UPPER CANADA.

Victoria, &c.

To the Sheriff of the County of —, Greeting :

We command you, that you levy, or cause to be levied, of the goods and
chattels of C. D., late of —, [add the description of the returning officer,
where the execution is against him], the sum of —, which hath been
lately adjudged to A. B. of —, in our Court of Queen's Bench [or Common
Pleas], at Toronto, according to the form of the statute in such case made
and provided, for his costs by him laid out and expended in the prosecuting
of a certain writ of summons in the nature of a quo warranto, issued out of
our said court against —, at the relation of the said A. B., for usurping
the office of —, in our —, of —, in your county, [add, when the
returning officer is a party, "to which proceeding the said — was made
a party,"] and whereof the said C. D. [&c.] is [or are] convicted, as in our
said court appears of record, and that you have that money before our Court
of Queen's Bench [or Common Pleas], at Toronto, on the — day of —
Term, to satisfy the said A. B. for his costs aforesaid, and have you then
there this writ.

Witness, &c.

FI. RA. AGAINST THE RELATOR FOR THE DEFENDANT'S COSTS.

UPPER CANADA.

Victoria, &c.

To the Sheriff of the County [or United Counties] of —, Greeting:

We command you, that you levy, or cause to be levied, of the goods and chattels of A. B., late of — the sum of — which hath lately been adjudged to C. D. of — in our Court of Queen's Bench (or Common Pleas), at Toronto, according to the form of the statute in such case made and provided, for his costs by him laid out and expended in his defence upon a certain writ of summons in the nature of a quo warranto, issued out of our said court against the said C. D., upon the relation of the said A. B., for usurping the office of — in our — of — in your County (or Counties). [If the returning officer has been made a party, add here, "to which proceeding E. F., the returning officer, at the election of the said C. D. to the said office, was made a party,"] whereof the said A. B. is convicted as in our said court appears of record; and that you have that money before our said court, at Toronto, on the — day of — Term, to satisfy the said C. D. for his costs aforesaid, and have you then there this writ.

Witness, &c.

N. B.—When the returning officer has been made a party, and is entitled to costs, the fieri facias must be framed accordingly.

16.—Contempts in disobeying writs of summons, certiorari, mandamus, or other process, rule or order of either court, or of any judge thereof acting in the execution of the powers conferred by the statutes 12 Vic. ch. 81, and 13 & 14 Vic. ch. 64, are to be certified into the court from which the writ of summons issued, to be dealt with like other contempts of such court in other cases.

17.—If any of the forms given in the foregoing rules shall not be found adapted to a case which may arise in reference to proceedings connected with or resulting from the trial of the validity of municipal elections, changes are to be made therein when necessary, at the discretion of the judge who shall try or determine the case, to adapt the same to such particular case.

18—None of the proceedings which shall be had in any case for trying the validity of any election, or which shall follow the determination thereof, shall be set aside or held void on account of any irregularity or defect, which shall not, in the opinion of the court or judge before whom the objection is made, be deemed such as to interfere with the just trial and adjudication of the case upon the merits.

19.—*Costs.*—The same table as authorized by the fifteenth rule of Hilary Term last, and any disbursements necessarily made, and not allowed for in the said table, may be taxed according to the table of fees

generally established in the court in which the proceedings shall be conducted.

JNO. B. ROBINSON, C. J.
J. B. MACAULAY, C. J. C. P.
A. McLEAN, J.
WM. H. DRAPER, J.
R. B. SULLIVAN, J.
ROBERT BURNS, J.

The costs which will be taxable under the foregoing orders may be stated as follows :—

ATTORNEY.

	£	s.	d.
<i>Instructions</i> —To apply for a writ of summons or defend against	0	5	0
<i>Statement</i> —Of the grounds of complaint, including fair copy.....	0	5	0
<i>Affidavits</i> —Whether special or common, per folio of 100 words, and copies thereof when necessary	0	0	6
<i>Recognizance</i> —Drawing.....	0	2	6
<i>Attendances, Special</i> —at Chambers, for writ of summons, to serve writ, upon the argument, or to hear judgment.....	0	2	6
<i>Attendances, Common</i> —all other attendances not mentioned as special, each.....	0	1	3
<i>Writs</i> —Preparing writ of summons, writ of certiorari, mandamus, trial or writ of execution each	0	2	6
Fee on each writ.....	0	5	0
<i>Notices</i> —Indorsement on writ of summons, every other indorse- ment upon writ, when required to be made, and all common notices, each.....	0	1	3
<i>Copies</i> —Of statement or other papers and documents, when re- quired to be made or served, half the amount allowed for the original, and when no specific sum is allowed, then copies of papers required, or which may be directed to be made, furnished or served, to be allowed per folio of 100 words.....	0	0	6
<i>Issues</i> —When directed to be tried, preparing same.....	0	5	0
<i>Disbursements</i> —Postages actually paid, mileage where it is neces- sary to employ parties to serve writs, papers, &c., the actual number of miles travelled to perform the service, per mile... The affidavit must state the number of miles actually travelled, and also that the charge has been paid.	0	0	6
N.B.—No instructions to be allowed nor attendances to swear affidavits. No instructions to be allowed for briefs or charge for briefs.			

COUNSEL.

<i>Fee</i> —For argument upon the return of the writ of summons, if argued by counsel.....	1	5	0
To be increased at the discretion of the judge, according to the importance of the case.			
<i>Fee</i> —Upon the trial of issues upon writ of trial at the County Court	1	10	0

CLERKS OF THE CROWN AND PLEAS AND THEIR DEPUTIES.

	£	s.	d.
For taking recognizance.....	0	2	6
For signing and sealing each writ.....	0	1	3
For each order or rule of court.....	0	2	6
For filing each paper.....	0	0	4
Copies of papers, per folio of 100 words.....	0	0	6

COMMISSIONER.

For taking recognizance.....	0	2	6
Swearing each affidavit.....	0	1	0

CLERK IN CHAMBERS.

For each fiat granted by a judge for a writ.....	0	1	3
For filing each paper.....	0	0	4
For making up each final judgment of the judge and returning the same into court.....	0	5	0
Copies of papers, per folio of 100 words.....	0	0	6
Witnesses, jurors, sheriff and other officers, the same fees and allowances as for similar services at Nisi Prius, and in the Courts of Queen's Bench and Common Pleas.			

INDEX.

ACCIDENTS. *See* RAILWAYS, 2.

ACCOUNTS. *See* BY-LAWS—FEE FUND.

Two to be kept, 114.

To be called Special Rate and Sinking Fund accounts, 114.

Objects thereof, 114.

Surplus to Special Rate account, how disposed of, 114.

How invested, 115.

Authority of Governor General, 116.

Appropriation of surplus, 116.

Auditing. *See* OFFICERS, 2 and 5.

To Government to be in Dollars and Cents, 616.

ACT (INTERPRETATION.) *See* INTERPRETATION ACT.

ADDINGTON (COUNTY.)

Of what Townships composed, 430.

United with Lennox for Representation in Assembly, 485.

Part of Cataraque in Council, 613.

ADJOURNMENT.

Of Meetings. *See* MUNICIPAL COUNCILS, 6.

ADMINISTRATION OF JUSTICE AND POLICE. *See* APPEALS—BY-LAWS, 6.

Cities to be Counties for certain purposes, 208.

1. *Justices of the Peace—*

Heads of Councils to be, 208.

Qualification and Oaths, 208.

Commissions of Peace when to cease, 209.

Jurisdiction of County Justices, 209.

Justices may be appointed for Towns, 209.

Mayor may call out posse, 210.

Power of Heads of Councils, 210.

2. *Police Office—*

Towns and Cities to establish, 211.

Who to preside, 211.

Days of attendance, 211.

3. *Recorder's Court—*

To be in every City, 211.

Who to preside, 211.

Jurisdiction of Court, 211.

4. *Police Magistrates and Recorders—*

Recorder to be Barrister of five years, 212.

His salary, 212.

ADMINISTRATION OF JUSTICE AND POLICE—(continued.)

- Salary of Police Magistrate, 212.
- When to be appointed, 212.
- To be appointed by Crown, 213.
- Clerks of such Courts, 213.
- Salary, 213.
- 5. *Sessions of such Courts*—
 - Recorder's Court, four annual Sessions, 213.
 - On what days to be holden, 213.
 - Panels of Jurors 214.
 - Duty of High Bailiff, 214.
 - Costs of persons acquitted, 214.
- 6. *Expenses of Recorders' Courts*—
 - How defrayed, 214.
- 7. *Other duties of Recorder*—
 - To hold certain investigations, 214.
 - His powers in respect thereof, 215.
 - His duties, 215.
- 8. *City Division Court*—
 - When Recorder to hold, 215.
 - His powers and privileges, 216.
 - Authority of County Judge to cease, 216.
 - Salary as Judge of Division Court, 216.
 - Not to practise as a Barrister, 217.
 - Provision in case of his absence, 217.
 - Appointment of Deputy, 217.
 - Form thereof, 217.
 - Power of Governor in respect thereof, 218
- 9. *Jurors and Witnesses*—
 - Who competent as, 218.
 - Exemptions as Jurors, 219.
- 10. *High Bailiff and Constables*—
 - Appointment of High Bailiff, 219.
 - Appointment of Chief Constable, 219.
 - Arrests without warrant for breaches of Peace, 219
 - Power of Mayor to suspend, 220.
 - Salary during suspension, 220.
- 11. *Board of Police*—
 - How constituted, 220.
 - How many a quorum, 221.
 - Number of Police Force, 221.
 - Appointment of Policemen, 221.
 - Board to make regulations, 221.
 - Police subject to Board, 222.
 - Remuneration of Force, 222.
- 12. *Court Houses and Prisons*—
 - Power to erect, 222, 239.
 - When common to Cities and Counties, 223.

ADMINISTRATION OF JUSTICE AND POLICE—(*continued.*)

- Gaols, Houses of Correction, 241.
- Sale of spirituous liquors in, 252.
- Compensation how regulated, 223.
- When may be revised, 224.
- Cities may erect, 224.
- Provision if Counties separated, 224.
- Inspection of. *See* INSPECTORS, 4.
- 13. *Lock-up Houses*—
 - Counties may establish, 225.
 - Constable to be placed in charge, 225.
 - Who to be confined therein, 225.
 - Expense of conveying prisoners, 226.
 - Provision as to existing Lock-up Houses, 226.
 - Power of other Municipalities to establish, 226.
- 14. *Houses of Industry and Refuge*—
 - How and by whom established, 227.
 - Who liable to be committed thereto, 227.
 - Punishment of refractory inmates, 228.
 - Duty of Inspectors, 228.
- 15. *Work Houses*.
 - How and by whom established, 228.
 - Who liable to be committed thereto, 229.
- 16. *Care of Gaols, Court Houses, &c.*—
 - Sheriff to have, of County Gaol, 229.
 - County Council of Court House, 229.
 - Duty to provide accommodation for Courts, 229.
 - Provision for City Gaols, &c., 230.
- 17. *Fees*—
 - Of Sheriffs, Coroners, Clerks of the Peace, Constables, Criers, how fixed, 286.
 - Mode of levying, 286.
 - By whom, for assault and battery to be paid, 286.
 - Cases of felony, 287.
 - Penalty for extortion, 287.
 - County Treasurer's duty, 287.
 - Limitation of suits for penalties, 287.
 - Expenses to be borne by the Province, 294.
 - Accounts how audited, 294.
 - What deemed expenses, 294.
- 18. *Returns to Government*—
 - Proper Officer to make return of Fee Fund, 491.
 - When to be made, 491.

AFFAIRS (FINANCIAL)

Investigation of. *See* COMMISSIONERS.

AFFIRMATIONS,

Instead of Oaths. *See* OFFICIAL DECLARATIONS.

AGRICULTURAL SOCIETIES.

Power to aid. *See* BY-LAWS, 8.

ALDBOROUGH (TOWNSHIP.)

Difficulties as to titles, &c., in, settled, 555.

ALE HOUSES.

Regulation of. *See* BY-LAWS, 9.

Alms Houses. *See* BY-LAWS, 9—ASSESSMENTS, 1.

ALIENS.

Residents on 10th February, 1841, naturalized, 386.

As to Residents on 10th February, 1848, 387.

As to other aliens, 387. 663.

Oath of residence when required, 387.

Form thereof, 388.

Form of oath of allegiance, 388.

Before whom to be taken, 388.

Certificate thereof to be granted, 388.

Where to be presented, 389.

Effect of recording same, 389.

Form of certificate of naturalization, 389.

What evidence of naturalization, 390.

What aliens entitled to certificate, 390.

Wives of British subjects naturalized, 390.

Fees for duties aforesaid, 390.

Aliens may hold and transmit real estate, 391.

On what terms privileges granted may be used, 391.

False swearing perjury, 391.

ALLEGIANCE.

Oath of, 388, 398.

ALMS HOUSES.

See BY-LAWS, 16.

AMELIASBURGH.

Survey in, 421.

AMHERSTBURGH.

Authorized to sell Market site, 480¹.

Proceeds, how to be applied, 482.

AMUSEMENT,

Regulation of places of. *See* BY-LAWS, 12.

ANATOMY.

Delivery of certain bodies for dissection, 256.

To whom to be delivered, 257.

Inspectors to be appointed, 257.

Duties of Inspectors, 257.

Duty of Coroners as to bodies, 257.

Duty of Superintendents of Public Institutions, 257.

ANATOMY—(*continued.*)

- Register to be kept by them, 258.
- Emoluments of Inspector, 258.
- Security to be given by Medical men, 258.

ANCASTER.

- Survey in, 243.

ANIMALS (CRUELTY TO.)

- See* BY-LAWS, 9—POUNDS.

ANNEXATION.

- Of Gores. *See* GORES.
- Of pieces of one Municipality to another. *See* CITIES, TOWNS AND VILLAGES.
- Of Townships. *See* TOWNSHIPS.

ANSTRATHER (TOWNSHIP.)

- Attached to Peterborough, 632.

APPEALS. *See* ASSESSMENTS 4.

- Right of appeal from decision of Magistrates, 400.
- Proceedings to effect same, 401.
- Jury to be empannelled on request, 401.
- Oaths, Jurors, 401.
- Appeal may be abandoned, 401.
- Proceedings in such case, 401.
- So under By-Laws of Municipality, 500.

APPOINTMENTS. *See* INTERPRETATION ACT—OFFICERS.

- When to be made in default of elections, 54.
- When equivalent to elections, 63.
- How contested, 56.

ARBITRATION. *See* ROADS.*Proceedings.*

- Each to appoint an arbitrator, 194.
- The two to appoint a third, 194.
- Provision in case of neglect, 194.
- In case of an, as to roads, 195.
- Provision if owner fails to name arbitrator, 195.
- Time for award, 196.
- County Judge when to appoint arbitrator, 196.
- Appointments how made, 196.
- Head of Corporation to appoint, 197.
- Provision if several interested in same property, 197.
- Arbitrators to be sworn, 197.
- Form of oath, 197.
- When necessary for award to be adopted by By-law, 198.
- When notes of evidence to be filed, 198.
- Power of Courts as to award, 199.

ARREARS (OF TAXES)

How recoverable. *See* ASSESSMENTS, 7, 8.

ASHES. *See* BY-LAWS, 15.

ASSESSMENT ROLLS. *See* ASSESSMENTS, 3.

ASSESSMENTS. *See* INDIANS.

1. *Property liable to taxation—*

In general all real and personal, 501.

Definition of "Land," and other terms, 501.

Scale for assessing personal, 502.

Tax on income, 502.

Exemptions,

Property of Her Majesty, 502.

Places of worship, &c., 502.

Provincial Penitentiary, 503.

Poor Houses, &c., &c., 503.

Scientific Institutions, 503.

Personal of Governor, 503.

Official occupants of public property, 503.

Full and half pay of persons in military service, 503.

Pensions, &c., 503.

Provincial Pensions, under £50, 503.

Income of Farmers, 503.

Personal, secured by mortgage, 503.

Bank and Railway Stock, 503.

Personal, to amount debts due, 503.

Nett Personal, under £25, 503.

Stipends of Clergymen, under £300, 504.

Household effects, 504.

2. *Assessments how made—*

Lands to be assessed where situate, 504.

When in name of owner, 504.

When in name of occupant, 504.

From whom taxes recoverable, 504.

Unoccupied lands how to be designated, 504.

Proviso as to lands of Railways, 504.

How property of corporations to be assessed, 505.

Property of Partnerships how, 505.

Where no place of business, 505.

Where property held in representative capacity, 505.

Real, to be estimated at full value, 506.

What deemed vacant land, 506.

How to be valued, 506.

What deemed yearly value of personalty, 506.

What deemed yealy value of realty in Cities, 506.

Taxes to be levied equally on whole ratable property, 506.

From what date to be computed, 506.

3. *Assessments how and by whom to be made—*

One or more assessors to be appointed, 506.

Creation of assessment districts, 507.

ASSESSMENTS—(continued.)

Roll how prepared—its contents, 507.
 Non Residents, how to be distinguished, 507.
 Particulars to be delivered to assessor, 507.
 Duty of assessors thereupon, 508.
 Penalty for false statements, 508.
 Representative capacity to be stated, 508.
 Duty of Railway Companies, 508.
 Lands of non residents, how to be designated on roll, 509.
 Notice of value to be given by assessors, 509.
 When roll to be completed, 509, 539.
 Certificate to be attached to roll, 510.
 Roll when completed to be delivered to Clerk, 510.
 Duty of Clerk in respect thereof, 510.

4. *Appeals from assessments—*

Court to try same, 510.
 Quorum, 511.
 General powers, 511, 513.
 Parties entitled to appeal, 511.
 Effect of roll when finally passed, 511.
 Publication of list of complainants, 511.
 Advertisement of sitting of Court, 511.
 Notice to parties concerned, 511.
 Appearance, 512.
 False declaration perjury, 512.
 Power of Court to adjourn, 513.
 May summon witnesses, 513.
 Penalty for non-attendance, 513.
 Still further appeal to Judge of County Court, 512.
 Notice to be published, 512.
 Hearing appeals, 512.
 Return to be made by Judge to Clerk of Division Court, 512.
 When to be made, 512.
 Duty of Clerk of Division Court, 512.
 Costs, award of, 513.

5. *Municipal rates—*

Estimate to be made of sums required, 514.
 By-laws for raising same, 514.
 Provision if amount collected short, 514.
 Provision if there be an excess, 514.
 How rates to be calculated, 514.
 County Courts to revise Rolls, 514.
 When to be done, 515.
 Provision if Clerk neglect to transmit, 514.
 Apportionment of County rates how to be based, 515.
 Same as between Townships and Townships, 515.
 Provision as to new Municipalities, 515.
 Portions to be raised by Townships to be certified by Clerks, 516.
 When to be certified, 516.

6. *Statute Labour—*

Commutation for in certain cases, 516.
 Exemptions, when, 516.

ASSESSMENTS—(continued.)

Ratio of labour, 517.
 Money commutation in such cases, 517.
 County Councils may alter rates, 517.
 Payment of, how enforced, 517.
 Commutation by non-residents, 518.
 Same when names entered on rolls, 518.
See also PENSIONERS.

7. *Collection of rates*—

Collectors roll to be made out, 519.
 Contents thereof, 519.
 When to be delivered, 519.
 List of non-residents also to be made out, 520.
 What to be done with same, 520.
 Duty of collectors on receiving roll, 520.
 Power to levy by distress, 520.
 Notice of sale to be given, 520.
 Surplus of sale, if any, how dealt with, 521.
 Proceedings upon removal of parties, 521.
 May be sued by action, 521.
 Collector's roll evidence of debt, 521,
 Taxes a special lien on land, 521.
 Collection of, notwithstanding separation of Township or County,
 27.
 When rolls to be returned, 522.
 Proceedings if taxes then unpaid, 522.

8. *Non-Residents*—

Lists to be furnished by Commissioner of Crown Lands, 522.
 Duty of County Treasurer on receipt of same, 522.
 Duty of Township Clerks on receipt of same, 522.
 Copies of parts of Collector's Roll to be furnished County Treasurer, 523.
 Proceedings after roll returned, 523.
 Duty of County Treasurer, 523.
 Fees to Treasurer for searches, 523.
 Lands where taxes not paid to be entered in a book, 524.
 Book to be balanced yearly, 524.
 Proceedings where lands not assessed, 524.
 Ten per cent. to be added yearly to arrears, 524.
 Sheriff may levy where distress, 525.
 After five years arrears, sale, 525.
 County may extend the period, 525.
 Distinction to be made between lands leased and granted, 525.
 Duty of Sheriff on receipt of warrant, 525.
 Advertisement for three months, 525.
 In what newspaper, 525.
 Levy of costs, 526.
 Sheriff to levy if distress, 526.
 How lands to be sold by Sheriff, 526.
 Return by Sheriff, 526.
 Provision if no bidders, 526.
 Sheriff to give certificate of sale, 526.
 Purchasers, how far deemed owners, 527.

ASSESSMENTS—(*continued.*)

Remuneration of Sheriff, 527.
 How collected, 527.
 Period for redemption by owner, 528.
 Ten per cent. on purchase money to be paid, 528.
 When Sheriff to make a deed, 528.
 How to be registered, 528.
 Fees to Registrar, 528.
 Provision as to old deeds, 529.
 Entry of sale to be made by Sheriff, 529.
 Non-Resident Land Fund established, 529.
 Arrears to form a charge on land, 530.
 Deficiencies, how supplied, 530.
 Issue of debentures on credit of Non-Resident Land Fund, 530.
 By whom to be negotiated, 530.
 Interest thereon, how to be paid, 530.
 Surplus of fund, how disposed of, 531.
 Treasurer's remuneration, how paid, 531.
 Annual statement of fund to be made, 531.
 Copy to be transmitted to Provincial Secretary, 531.
 Interpretation of words, 531.

9. *Responsibility of Officers—*

Bonds to be given, 531.
 Penalty for neglect of duty, 532.
 Punishment for fraudulent assessment, 532.
 Evidence of such fraud, 532.
 Summary recovery of money due, 533.
 Duty of Sheriff in the matter, 533.
 Liability of Sheriff, &c., for neglect, 533.
 Duty of Coroner, 534.
 Application of penalties, 534.
 Statutable assessments, 534.
 How public moneys to be paid over when collected, 535.
 Treasurer of Township to pay over County moneys, 535.
 How to be enforced, 535.
 Duty of Sheriff, 535.
 Treasurer, &c., to account to Crown for certain moneys, 535.
 When Counties responsible to Crown, 536.
 Responsibility of sureties, 536.

10. *Miscellaneous—*

Penalty for tearing down notice, 536.
 Recovery of fines imposed, 536.
 Interpretation clause, 537.
 Provision for new Municipalities, 537.
 Short title of Act, 537.
 Arrears between 1836 and 1849, how to be collected, 407.
 Notice to party in default, 408.
 Taxes so paid, how to be dealt with, 408.
 Certain doubtful By-laws made good, 539.
 Certain rates imposed by such By-laws confirmed, 540.
 Provision for rate imposed by 59 Geo. III. c. 8, 540.
 Provision as to taxes already collected, 541.
 When lands chargeable, 541.

ASSESSMENTS—(*continued.*)

- Repeal of By-law not to extinguish arrears, 541.
- Duty of County Treasurer, 541.
- To make lists of such lands, 541.
- Lists to be advertised, 542.
- Failure to advertise not to invalidate claim of Counties, 579.
- Provision where lands already sold, 542.
- Time for redemption, 543.
- Compensation, how much, 543.
- Lists of lands redeemed to be published, 544.
- Repayment to purchasers, 544.
- Cancellation of deeds, 544.
- Certain sales confirmed, 544.
- Interpretation clause, 545.
- Assessments for 1854 confirmed, 559.
- Lunatic Asylum tax discontinued, 615.
- Other moneys appropriated, 615.
- Investment of such money, 615.
- Deeds to Assignees of Purchaser heretofore made valid, 630.

ASSESSORS. *See* ASSESSMENTS, 3—OFFICERS, 4.

ATTORNEYS.

- Exempt from municipal offices, 33.

AUCTIONEERS.

- Licensing of. *See* BY-LAWS, 13.

AUDITORS. *See* OFFICERS, 5.

AWARD. *See* ARBITRATION.

BAIL.

- Effect of separation of Counties on, 24, 565.

BAILIFF.

- Of Division Court disqualified to sit in Council, 32.

BAILIFF (HIGH). *See* ADMINISTRATION OF JUSTICE, 10.

BANKING.

- General powers of, 320.
- Not allowed by Municipal Corporations. *See* MUNICIPAL COUNCILS.

BARRISTERS.

- Exempt from municipal offices, 33.

BATHING.

- Regulation of. *See* BY-LAWS, 15.

BATHURST.

- Legislative Council, Electoral Division of, constituted, 613.

BATHURST (OLD DISTRICT).

- Boundary defined, 381.
- Parcel annexed to, 381.

BAYFIELD.

- Construction of Harbour authorized, 658.

BAYS.

Counties on, how bounded, 427.

BEDFORD (TOWNSHIP).

Survey in, confirmed, 561.

BELLEVILLE.

Boundaries and Wards, 402.

BERLIN.

Certain By-laws of, legalized, 688.

BEVERLEY (TOWNSHIP).

Boundaries of certain lots in, settled, 556.

Same, 584.

BILLIARD TABLES.

How licensed. *See* BY-LAWS, 9.

BILLS OF MORTALITY. *See* BY-LAWS, 15.

BIRDS.

Destruction of. *See* BY-LAWS, 9.

BOARD OF POLICE. *See* ADMINISTRATION OF JUSTICE, 11.

BONDS.

To be taken from certain Officers. *See* ASSESSMENTS, 9.

BOOKS.

Property of Corporation. *See* OFFICERS, 6.

BORROWING MONEY. *See* BY-LAWS, 7.BOUNDARIES. *See* BY-LAWS, 9,—SURVEYS.BOWLING ALLEYS. *See* BY-LAWS, 9.

BOWMANVILLE.

Incorporated as a Town, 642.

Division into three Wards, 642.

Boundaries of Wards, 642.

BRADFORD.

Incorporated as a Village, 650.

Boundaries of Village, 650.

BRANT (COUNTY).

Of what Townships composed, 431.

Divided into two Ridings for Representation in Assembly, 489.

Part of Erie in Legislative Council Divisions, 612.

BRANTFORD (TOWN).

Boundaries, Wards, &c., 356.

BRANTFORD (TOWNSHIP).

Divided for purposes of Representation in Assembly, 489.

Certain proceedings of Council confirmed, 658.

Certain Road allowance vested in G. S. Wilkes, 596.

Same in F. T. Wilkes, 661.

Same in G. S. Wilkes, 662.

BREAD.

Assize of. *See* BY-LAWS, 15.

BRIDGES. *See* ROADS.

Interpretation of, 231.

BRIGHTON.

New Township of, 434.

Boundaries how fixed, 472.

Road allowance in, vested in Jonas T. Wellington, 642.

BROCK.

Legislative Council Election Division of, 612.

BROCKVILLE.

Boundaries, Wards, &c., 358.

An Electoral Division for Assembly, 490.

Part of St. Lawrence for Council, 612.

BRUCE.

Of what Townships composed, 431.

United with Huron for Representation in Assembly, 485.

Part of Saugeen for Legislative Council, 612.

Power to take Stock in a certain Railway, 633.

Proclamation appointing Walkerton County Town annulled, 687.

Selection of County Town by whom to be made, 687.

Claims of different places, how to be disposed of, 687.

Supplies to be voted, 687.

Decision of Governor to be final, 687.

BUCKETS (FIRE). *See* BY-LAWS, 15—POLICE VILLAGES, 2.**BURLINGTON.**

Legislative Council Division, 611.

BUTCHER'S MEAT.

Assize of. *See* BY-LAWS, 15.

BY-LAWS. *See* ASSESSMENTS, 5—CONSOLIDATED MUNICIPAL LOAN FUND—
POUND AND POUND KEEPERS—PUBLIC WORKS—RAILWAYS—ROADS.1. *General matters—*

How authenticated, 88.

Certified copies, evidence, 88.

Opposition, how made, 89.

Duty of Council thereon, 90.

2. *Proceedings to procure assent of Electors—*

Time and place of voting to be fixed, 90.

Returning officers to be named, 90.

Publication of By-law, 91.

Notice to be given, 91.

Poll to be taken, 91.

Poll Book to be returned to Clerk, 91.

Duty of Clerk, 91.

3. *Assent of Governor—*

Facts to be verified therefor, 92.

BY-LAWS—(continued.)

4. *Quashing*—

- Who may apply, 92.
- To what Courts, 93.
- Copy of By-law, &c., to be produced, 93.
- To be certified as directed, 93.
- Affidavit required, 93.
- Application when to be made when By-law promulgated, 95.
- What, promulgation, 95.
- When rate imposed, 96.
- Notice to be given, 96.
- Form thereof, 96.
- Notice giving substance, 97.
- Effect if not moved against within time limited, 97.

5. *Effect of Quashing*—

- When action to be brought, 98.
- Notice to be given, 98.
- To be against Corporation alone, 98.
- Tender of amends, 99.
- Plea of tender, 99.
- Costs, 100.

6. *Offences against*—

- By officers of Municipality, 100.
- Jurisdiction to try, 100, 101.
- Proceedings, 100.
- Commitment in default of distress, 101.
- Application of fines, 101.

7. *To create debts, &c.*—

- Power to pass, 109.
- When day to take effect to be named, 110.
- When debt to be redeemed, 110.
- Special rate to be provided, 110.
- Rate to be sufficient, 110.
- How amount of property to be ascertained, 111.
- Necessary recitals.
 - Amount of debt, 111.
 - Total amount to be raised annually.
 - Amount of ratable property, 111.
 - Special rate, 111.
- When assent of ratepayers requisite, 112.
- County Councils excepted, 112.
- Course to be pursued by County Councils, 112.
- Form of By-law, 695.
- Form of Notice, 113.
- Not repealable, 116.
- When debt contracted only pro tanto, 116.
- Reduction of special rate.
 - To be by By-law, 117.
 - Recitals of such By-law, 119.
- Anticipatory appropriations.
 - To be by By-law, 119.

BY-LAWS—(*continued.*)

- Sources thereof, 120.
- Requirements of By-law, 121.
- For relief of Junior County, 120.
- Cessation of original rate when authorized, 120.
- To be by By-law, 120.
- Requirements of By-law, 121.
- 8. *Counties, Townships, Cities, Towns, and Incorporated Villages may pass—*
 - For obtaining property, 123.
 - For appointing certain officers, 124.
 - For regulating duties, &c., of such officers, 125.
 - For aiding agricultural and other Societies, 125.
 - For taking census of inhabitants, 125.
 - For inflicting certain fines and penalties, 125.
 - For collecting such penalties by distress, &c., 126.
 - For imprisoning, &c., 126.
- 9. *Townships, Cities, Towns, and Incorporated Villages may pass—*
 - For granting Tavern Licenses, &c., 127.
 - For declaring terms, &c., of License, 127.
 - For declaring nature of security, &c., 127.
 - For limiting the number of Tavern Licenses, 127.
 - For regulating the houses, &c., licensed, 127.
 - For prohibiting sale of Spirituous liquors, 127.
 - Approval of electors when required, 127.
 - For appointing Inspector of Licenses, 131.
 - For defining their duties, &c., 131.
 - For licensing, &c., Billiard Tables, 132.
 - For regulating, &c., Victualling Houses, 132.
 - For licensing same, 132.
 - For ascertaining boundaries, 134.
 - For preservation of durable monuments, 134.
 - For obtaining property for Schools, 135.
 - For establishment and support of, 135.
 - For purchasing land for Cemeteries, 135.
 - For selling or leasing portions thereof, 135.
 - For preventing cruelty to Animals, 135.
 - For preventing destruction to Birds, 135.
 - For imposing tax on Dogs, 136.
 - For killing Dogs, 136.
 - For settling height of Fences, 136.
 - For regulating Division Fences, 136.
 - For preventing growth of Weeds, 136.
 - For preventing shows, &c., 137.
 - For regulating same, 137.
 - For preventing violation of Graves, &c., 137.
 - For preventing destruction of Trees, 137.
 - For preventing destruction of Sign Boards, 137.
 - For authorizing gas and water, 138.
 - For acquiring stock in Gas, &c., Companies, 138.
- 10. *Townships and Counties may pass—*
 - For paying members for attendance, 138.
 - Rate limited, 138.

BY-LAWS—(continued.)

11. *Townships alone may pass certain By-laws—*
See TOWNSHIPS.

12. *Counties, Cities and Towns, may pass—*

For appointing Inspectors of Weights and Measures, 144.
 For visiting places where used, 145.
 For destroying those not according to standard, 145.
 For imposing penalties therefor, 145.
 For enforcing observance of Sabbath, 145.
 For sale of intoxicating drinks to minors, &c., 146.
 For preventing indecent placards, 146.
 For preventing vice, 146.
 For suppressing Tippling Houses, 146.
 " " Houses of Ill-fame, 146.
 For preventinn Horse Racing, 147.
 For regulating same, 147.
 For preventing Shows, &c., 147.
 For regulating same, 147.
 For suppressing Gambling Houses, 147.
 For restraining Vagrants, 147.
 For punishing same, 147.
 For preventing Indecency, 147.
 For preventing Bathing, 147.
 For regulating same, 147.

13. *Counties and Cities may pass—*

For appointing Engineers, 148.
 " " Inspectors of Houses of Industry, 148.
 " " Surgeons for the gaol, 148.
 For licensing Auctioneers, &c., 148.
 " " Hawkers, &c., 148.
 For regulating Ferries, 149.
 Powers of Governor in Council, 149.
 For obtaining land for Grammar Schools, 149.
 For disposing of same, 150.
 For defraying expenses of University Pupils, 150.
 Same as to Grammar Schools, 150.
 For endowing Fellowships, &c., 151.

14. *Counties only, power to pass—*
See COUNTIES.

15. *Cities, Towns and Incorporated Villages, may pass—*

For regulating wharves, &c., 152.
 For removal of Street Obstructions, 152.
 For making Wharves, &c., 153.
 For regulating Harbours, &c., 153.
 For establishing Reservoirs, &c., 153.
 For regulating same, 153.
 For establishing Markets, 153.
 For regulating same, 153.
 For regulating sale of Meat, 154.
 For regulating sale of Animals, 154.

BY-LAWS—(continued.)

- For regulating, &c., Butcher's Meat, 154.
- For preventing forestalling, &c., 154.
- For regulating Hucksters, 154.
- For regulating Measuring and Weighing, 154.
- For imposing penalties for light weight, 154.
- For regulating vehicles exposing articles for sale, 154.
- For regulating avails of bread, 154.
- For destroying unwholesome Meat, 154.
- For selling Butcher's meat distrained for rent, 154.
- For preventing Nuisances, 154.
- For preventing Bathing, 154.
- For regulating same, 154.
- For abating Nuisances, 155.
- For preventing Privy Vaults, 155.
- For regulating construction of same, 155.
- For enclosing Vacant Lots, 155.
- For preventing Slaughter Houses, 155.
- For regulating same, 155.
- For preventing unusual noises, 155.
- For preventing use of Fire Arms, 155.
- For regulating same, 155.
- For preventing immoderate Driving, 155.
- For regulating Runners, 155.
- For providing for Public Health, 155.
- For regulating Interments, 155.
- For the keeping of Bills of Mortality, 155.
- For regulating Livery Stables, 156.
- For regulating keeping of Gunpowder, 156.
- For transport of same, 156.
- For appointing Firewardens, &c., 156.
- For providing Medals for Firemen, 156.
- For regulating use of Fire, 156.
- For regulating Combustible Manufactories, 156.
- For regulating construction of Chimneys, 156.
- For regulating Ashes, 157.
- For regulating Party Walls, 157.
- For compulsion of Scuttles, 157.
- For guarding against Fire, 157.
- For providing Fire Buckets, 157.
- For authorizing Officers to Inspect, 157.
- For suppressing Fires, 157.
- For regulating People at Fires, 157.

16. *Cities and Towns may pass—*

- For licensing Intelligence Offices, 158.
- For regulation of same, 158.
- For limiting duration of license, 158.
- For prohibiting, without license, 158.
- For fixing fee on license, 158.
- For regulating erection of wooden buildings, 158.
- For establishing Police, 158.
- For regulating, 158.
- For maintaining, 158.

BY-LAWS—(*continued.*)

- For acquiring land for industrial farm, 159.
- For erection of buildings on, 159.
- For management of, 159.
- For establishing alms houses, 159.
- For regulating same, 159.
- For granting out-door relief, 159.
- For aid to charitable institutions, 159.
- For compelling removal of snow, ice, and dirt, 159.
- For removal in case of default, 160.
- For numbering houses and lots, 160.
- For charging expense, 160.
- For keeping records of streets, 160.
- For procuring levels of cellars, 160.
- For report of plan, 160.
- For regulating construction of cellars, 160.
- For filling up grounds, &c., 160.
- For assessing owners, &c., 160.
- For making other necessary regulations, 161.
- For assessing for sewers, 161.
- For appointing Corporation Surveyor, 161.
- Examination of, 161.
- For lighting Municipality, 161.
- For laying down pipes, 161.
- For constructing works, 162.
- Requirements of By-law, 162.
- Holding of poll, 162.
- Provision if By-law repealed, 162.
- Provision if previous Company, 163.
- For inspection of gas metres, 163.
- For appointing Commissioners, 163.

BYTOWN. *See* OTTAWA.

CAMDEN.

Survey in, 251.

CANADA GAZETTE.

Advertisements in, of lands to be sold for taxes, 525.

CARLETON (COUNTY).

Of what Townships composed, 429.

A County for representation in Assembly, 429.

Part of Rideau, &c., for Council, 612.

CARTWRIGHT.

Part of, detached, 434.

CASTING VOTE. *See* MUNICIPAL COUNCILS, 6.

CATARAQUI.

Electoral Division of Legislative Council, 613.

CATTLE. *See* POUNDS—RAILWAYS, 2.

CAVENDISH.

Survey in, 251.

Attached to Peterborough, 632.

CAYUGA.

Divided into two, 383.
Part of Ottawa Street closed, 435.

CEMETERIES. *See* BY-LAWS, 9.CENSUS. *See* BY-LAWS, 8.

Certain sections of former Act repealed, 438.
When, to be taken, 438.
Governor may alter time by proclamation, 444.
Under whose superintendence, 438.
What information required, 438.
Officers by whom to be taken, 439.
Appointment of Enumerators, 439.
Instructions to Enumerators, 439.
Duty of Enumerators, 439.
Return to be made to Census Officer, 440.
And by him to Board of Statistics, 440.
Printed Schedules to be furnished, 441.
Occupants of houses to fill up same, 441.
Penalty for neglect or false returns, 441.
Schedules to be collected and by whom, 441.
And to be delivered to Census Officers, 442.
Power of Enumerators to ask questions, 442.
Penalty for refusal to answer or if false, 442.
Recovery and application of penalties, 442.
Penalty on Census Officers, &c., for neglect of duty, 443.
Power of removal, 443.
What, evidence of instructions, &c., 443.
Allowance to Census Officers, 443.
Same to Enumerators, 443.
How allowances paid, 444.
Report to be laid before Parliament, 444.
Interpretation Clause, 444.

CHAIN BEARERS. *See* SURVEYS, 2.

CHAIRMAN.

In absence of Head Council. *See* MUNICIPAL COUNCILS, 6.

CHAMBERLAIN. *See* OFFICERS, 3.CHARCOAL. *See* POLICE VILLAGES, 2.CHARITY. *See* BY-LAWS, 16.

CHATHAM.

Power of, to sell certain land, 562, 590.

CITIES. *See* BY-LAWS—ROADS.

Erection of Towns into, 7.
Division of, into Wards, 9.
Parts of adjacent Townships may be added to, 9.
Effect on land so added, 9.
New division of, into Wards, 9.
Liberties abolished, 10.
Heads and Members of Council, 31.

CITIES—(*continued.*)

Qualification, 31.

Returns by, to Government. *See* RETURNS.

CLARKE (TOWNSHIP.)

A certain line established, 660.

CLERGYMEN,

Exempt from Municipal Offices, 33.

CLERK (MUNICIPAL.) *See* ADMINISTRATION OF JUSTICE, 4—OFFICERS, 2—
ELECTIONS—MAYORS.

CLERK OF THE PEACE.

Appointment of, for Provisional Municipality, 21.

His Fees, 294.

CLERGY RESERVES.

Proceeds divided into two Funds, 556.

Of what to consist, 556.

Where moneys to be placed, 556.

Certain stipends charged thereon, 557.

Power to commute, 557.

How commutation money to be invested, 558.

Sufficient to meet stipends to be retained, 558.

Division of balance among Municipalities, 558, 585.

Provision if Municipality in debt to Government, 558.

What deemed a Municipality, 559.

Returns to be made by Municipality, 585

Penalty for neglect to make same, 585,

Provision if too much money paid to any Municipality, 586.

Power of Municipality to invest, 629.

CLIFTON.

Incorporated as a Town, 591.

Boundaries thereof, 591.

Governor may divide into Wards, 592.

CLINTON.

Incorporated as a Village, 651.

Corporate powers, 651.

COBOURG.

Boundaries and Wards, 403.

Certain By-laws of, legalized, 664.

COLLECTORS. *See* OFFICERS, 4.COLLECTORS' ROLLS. *See* ASSESSMENTS, 7.

COLLEGES.

Masters of exempt from Municipal offices, 33.

COLLINGWOOD.

Limits diminished, 688.

COMMENCEMENT OF MUNICIPAL ACT, 2.

COMMISSIONERS.

To inquire into Financial affairs, 122.

COMMON SCHOOLS.

- Certain moneys appropriated for, 392.
- How to be invested, 392.
- How to be applied, 392.
- Certain land set apart for, 392.
- When annual grant to cease, 393.

COMMUTATION OF STATUTE LABOR. *See* ASSESSMENTS, 6.

CONCESSION LINES. *See* SURVEYS, 2.

CONSOLIDATED MUNICIPAL LOAN FUND.

- The Fund established, 460.
- How Municipalities to borrow, 461.
- Power to assist in certain undertakings, 461.
- By-laws under, requirements of, 461.
- Publication before passing, 461.
- General Meeting of Electors, 461.
- Proceedings at such meeting, 462.
- Poll may be demanded, 462.
- Adjournment of Poll, 462.
- Close of Poll, 462.
- By-law of a County, provision therefor, 463.
- Approval or disapproval, 463.
- Information to be furnished Governor, 464.
- Demand of further information, 464.
- Receiver General to issue debentures, 464.
 - Form thereof and where payable, 464.
 - How to be worded, 465.
 - To conform with By-laws, 465.
 - Rate of interest and terms of payment, 465.
 - To be for even sums, 465.
 - To contain provision for calling in, 465.
 - To be numbered, 465.
 - Exchanging debentures, 465.
 - To be issued as Government debentures, 466.
- Advances from Upper Canada Building Fund, 466.
- Accounts to be kept by Receiver General, 466.
- Payments to be made at eight per cent., 467.
- Coupons to be taken as money, 467.
- Sinking Fund constituted, 467.
- Share of each Municipality in same, 467.
- Payments to be made out of it, 467.
- Securities may be sold, 468.
- Duty of Municipal officers after By-law, 468.
- Provision if moneys invested 469.
- Provision if surplus or deficiency, 469.
- All profits to go to Fund, 469.
- Proceedings if default, 470. 617.
- Interest to be charged on default, 470.
- Moneys to be collected as usual, 470.
- Warrant to Sheriff, 470.
- Further debt not to be without sanction, 471.
- Operation of Act, 471.
- Interpretation of Act, 470.

CONSOLIDATED MUNICIPAL LOAN FUND—(continued.)

- Forms, 471.
- Copy of By-law to be sent to Receiver General, 482.
- When approved certain rate need not be levied, 483.
- Debentures, where to be deposited, 483.
- Provisions as to By-laws passed by Unions of Counties, 483.
- When approved informalities immaterial, 483.
- How far act applicable to gas and water companies, 484.
- Or for the making of plank or macadamized Roads, 484.

CONSTABLES. See ADMINISTRATION OF JUSTICE AND POLICE, 11.

- Fees in Criminal cases, 298.

CONTESTED ELECTIONS,

- Jurisdiction of Courts, 56.
- Who may preside, 56.
- Preliminary proceedings, 57.
- Form of statement of relator, 698.
- Form of Recognizance, 699.
- Form of Fiat authorizing Writ, 699.
- Issue of Writ, 58.
- Form thereof, 58, 700.
- When to unseat several persons, 58.
- When more than one Writ, 58.
- By whom to be issued, 59.
- How served, 59.
- Return thereof, 59.
- Form of minute of service to be endorsed, 701.
- Form of affidavit of service, 701.
- Form of appearance, 701.
- Returning Officer, how made a party, 59.
- Form of writ to make him a party, 702.
- Intervening parties may come in, 60.
- Power of Judge to try summarily, 60.
- And to remove or confirm, 60.
- When writ for new election to go, 61.
- Defendant may disclaim, 61.
- Disclaimer, how effected, 61.
- Form of disclaimer, 62.
- How delivered, 62.
- Effect as to costs, 62.
- Either party before hearing may have copies of affidavits, 703.
- Proceedings at hearing, 703.
- Judge may require further affidavits, 703.
- Power to send issue to a jury, 703.
- Form of writ of trial in such case, 703.
- Form of indorsement of verdict, 704.
- Decision of Judge final, 63.
- Form of judgment, 704.
- Costs in general, 62.
- Award of costs, 706.
- Table of costs to Attornies, Counsel, &c., 710, 711.
- Fi. fa. for costs, 708.
- Fi. fa. against relator for defendant's costs, 709.
- Form of mandamus to remove person where election invalid, 706.

CONTESTED ELECTIONS—*(continued.)*

Same for new election, 707.

Same when all former elections are judged invalid. and for admission of claimant, 707.

Same when others required to be elected, 708.

Punishment for contempt, 709.

Power to vary from forms given, 709.

Effect of irregularity in proceedings, 709.

Power to make general rules, 68.

CONTRACTORS.

Disqualified to be members of councils, 32.

Declaration against, 80.

When contracts void, 1057.

CORNWALL (TOWN).

Boundaries, Wards, &c., 359.

Together with Township an Electoral Division for Assembly, 490.

Part of Eastern, for Council, 613.

Survey in, 563.

Appropriation of surplus of certain moneys, 590.

CORNWALL (TOWNSHIP).

By-law of, legalized, 609.

Surveys in, 246, 270, 419.

CORONERS. See ANATOMY—FIRE INQUESTS.

Appointment of, for Provisional Municipality, 21.

Exempt from being Municipal Officers, 33.

Appointment of, in Cities and Towns, 157.

Fees in criminal cases, 298.

CORPORATIONS.

Powers in general, 3; note (*d*) 320.

Existing, 2.

New, 5.

Name, 3.

COSTS. See BY-LAWS, 5—CONTESTED ELECTIONS.**COUNCIL.**

Interpretation of the word, 231.

COUNCILLORS. See MUNICIPAL COUNCILS.**COUNTIES. See BY-LAWS—ROADS.**

Formation of, 423.

Creation of new, 17.

Seniority of, 17.

Separation of, 18.

Head and Members of, 28, 29.

May incorporate Villages, 6.

Withdrawal of Towns from. *See TOWNS.*

May pass By-laws to carry on improvements separately, 151.

Who to vote therefor, 151.

Other provisions, 151.

Duty of Treasurer, 152.

COUNTIES—(*continued.*)

- Property assessable therefor, 152.
- Dissolution of Unions, 425.
- Effect thereof, 425.
- As to debts due, 426.
- As to Prisoners on the limits, 24, 565.
- Return by, to Government. *See* RETURNS.

COUNTY TREASURERS. *See* ASSESSMENTS, 8—OFFICERS, 3.

COURT HOUSE.

- Acquirement of property for, 19.
- Erection of, and by whom, 19.
- To be in County Town, 23.

COURTS. *See* ADMINISTRATION OF JUSTICE, 12.

- Officers of, exempt from Municipal offices, 33.

COURTS OF REVISION. *See* ASSESSMENTS, 4.

CRAMAHE.

- Survey in, 243.

CRIER.

- Fees to, in criminal cases, 298.

CRUELTY TO ANIMALS. *See* BY-LAWS, 9.

DARLINGTON.

- Certain Road allowances vested in John Farley, 588.
- Survey of broken front concession authorized, 595.

DEBENTURES. *See* ASSESSMENTS, 8—CONSOLIDATED MUNICIPAL LOAN FUND—
RAILWAYS.

1. *General matters—*

- How to be made, 102.
- How transferable, 102.
- Effect of transfer, 102.
- Sufficiency of pleading thereon, 103.
- Full amount recoverable, 103.
- Issue of, by Senior County or Township after separation, 27.

2. *Registration of—*

- Certified copies of By-Laws heretofore passed to be sent to Registrars, 678.
- Together with returns in form given, 678.
- So of By-Laws hereafter passed, 678.
- Duty of Register, 679.
- Registry upon request of holders, 679.
- Effect of Registration, 679.
- By-Laws, how to be certified, 679.
- Registration to be open to inspection, 680.
- Fees payable, 680.
- Meaning of final passing, 680.
- To what bodies act inapplicable, 680.
- Neglect of duty misdemeanor, 680,
- Short Title of Act, 680.

DEBTS. *See* BY-LAWS, 7.

Valid, to be paid by Assessment, 108.

Account of, to be rendered yearly, 121.

Form of account, 122. *See also* RETURNS.

Commission to inquire into, 122.

Powers of Commissioners, 122.

Expenses of, how defrayed, 123.

Liability to, to continue, although Municipality raised to Village, Town, &c., 11.

Liability thereto of County or Township separated from a Union, 26.

DEPUTY REEVE.

When entitled to a seat, 30.

DECLARATORY CLAUSE.

Of 22 Vic., c. 99, 236.

DECLARATIONS. *See* OFFICIAL DECLARATIONS.

False, perjury, 230.

DEER.Time for killing. *See* GAME.**DESTRUCTION OF BIRDS, &c.** *See* BY-LAWS, 9—GAME.**DISCLAIMER.** *See* CONTESTED ELECTIONS.**DISORDERLY HOUSES.**Power to suppress. *See* BY-LAWS, 12.**DISORDERLY INNS.**Power to suppress. *See* BY-LAWS, 12.**DISSOLUTION.**Of Unions between Counties. *See* COUNTIES.Of Unions between Townships. *See* TOWNSHIPS.**DISTRESS.**For Taxes. *See* ASSESSMENTS, 7, 8.**DISQUALIFICATIONS.**Of Members of Councils. *See* MUNICIPAL COUNCILS.**DISTRICTS.**

Abolished, 348.

Effect on Court Houses, &c., 348.

Counties substituted, 349.

Courts of Assize, &c., 349.

Counties, of what to consist, 349.

Property of, transferred to Counties, 353.

Justices of the Peace, &c., 353.

List of Counties, &c., created out of, 354.

DITCHES.Filling up of. *See* BY-LAWS, 15.**DIVISION COURTS.**

Bailiffs disqualified to be Members of Councils, 32.

When Recorder to preside, 215.

DOCKS AND WHARVES. *See* BY-LAWS, 15.

DOGS. *See* BY-LAWS, 9.

DORCHESTER (NORTH AND SOUTH).

Made new Townships, 434.

DRAINAGE. *See* BY-LAWS, 16—TOWNSHIPS.

DRIVING. *See* BY-LAWS, 12—ROADS, 7, 8.

DUNDAS (COUNTY).

Of what Townships composed, 430.

A County for Representation in Assembly, 489.

Part of St. Lawrence Division for Council, 613.

DUNDAS (TOWN).

Boundaries, Wards, &c., 359.

Authorized to become security for Desjardins Canal Company, 583.

DURHAM (COUNTY.)

Of what Townships composed, 431.

Divided into two Ridings for Representation in Assembly, 486.

West Riding part of Queen's Division for Council, 612.

East Riding part of Newcastle Division for same purpose, 613.

DWELLING HOUSE.

Not to be encroached on by Roads. *See* ROADS, 1.

EAST NISSOURI.

New Township of, created, 433.

Authorized to dispose of a road allowance, 659.

EAST TILBURY.

Made an independent Township, 475.

EAST ZORRA.

Authorized to dispose of a road allowance, 659.

EASTERN.

Electoral Division of Legislative Council, 613.

EDUCATIONAL INSTITUTIONS. *See* COMMON SCHOOLS—GRAMMAR SCHOOLS.

When lands held for, may be sold, 574.

Disposition of proceeds, 574.

Provision if a surplus, 574.

Surrender to Crown need not be formally accepted, 574.

Purchaser not bound to see to Trusts, 575.

Rights of private parties not affected, 575.

Crown may re-grant lands surrendered, 575.

Act to apply to Upper Canada only, 575.

EJECTMENT.

For improved lands as for erroneous survey, 346.

Proof in such case, 346.

ELECTIONS. *See* MAYORS—RETURNING OFFICERS—TOWNSHIPS.

Y 2

ELECTIONS—*(continued.)*1. *General Matters—*

In what houses to be held, 36.
 Time of first Election, 37.
 Subsequent Elections, 37.
 To be by Wards, 37.
 Places, how appointed, 37.
 Same in Police Villages, 37.
 Days of election, 38.
 Term of office, 38.
 In Junior Townships, 38.
 In case of separation, 39.
 When to be by general vote, 39.

2. *Proceedings at,*

Notice by Returning Officer, 41.
 Duty of Clerk as to Assessment Roll, 42.
 Same as to Police Villages, 43.
 Returning Officer to provide poll books, 43.
 Its contents, 43.
 Hour for commencement, 43.
 Time of closing, 43.
 Returning Officer to administer oaths, 44.
 Oaths that may be administered, 44.
 Duty of Returning Officer at close of poll, 45.
 When to give a casting vote, 45.
 Poll books to returned to Clerk, 45.
 Provision for riot or other emergency, 46.
 When new election to be had, 46.
 When vacancy, &c., 53.
 How contested. *See* **CONTESTED ELECTIONS.**
 After contestation. *See* **CONTESTED ELECTIONS.**

3. *Appointments in default of,* 54.

How contested. *See* **CONTESTED ELECTIONS.**

ELECTORS. *See* **ELECTIONS.**

Interpretation of the word, 231.
 Who, 33
 Property qualification, 35.
 Where to vote, 36.
 Owners and occupants, 36.
 Joint owners, &c., 36.

ELECTORAL DIVISIONS, (PARLIAMENTARY.) *See* **REPRESENTATION.****ELECTRIC TELEGRAPHS.**

Punishment for damaging, 400.
 Who to have jurisdiction, 400.
 How penalties to be enforced, 400.

ELGIN (COUNTY.)

Of what Townships composed, 432.
 Divided for representation in Assembly, 489.
 Part of Malahide Division for Council, 612.

ELIZABETHTOWN (TOWNSHIP.)

Added to Brockville for representation in Assembly, 490.
Part of St. Lawrence Division for Council, 613.

ELORA.

Incorporated as a Village, 657.
Boundaries of Village, 657.

EMBEZZLEMENT.

By Municipal Officers. *See* OFFICERS, 6.

EMBRO.

Incorporated as a Village, 668.
Boundaries of Village, 668.

ENGINEERS.

Appointment of, 148.

ERECTION.

1. *Of Villages into Towns. See* VILLAGES.
2. *Of Towns into Cities. See* TOWNS.
3. *Of new Townships. See* TOWNSHIPS.
4. *Of new Counties. See* COUNTIES.

ESPLANADE. *See* TORONTO (CITY), 2.

ESSEX COUNTY.

Of what Townships composed, 432.
A County for representation in the Assembly, 489.
Part of Western Division for Legislative Council, 612.

ETOBICOKE.

Line between, and Gore of Toronto settled, 671.

EXCLUSIVE RIGHTS.

Not to be granted. *See* MUNICIPAL COUNCILS; 8.

EXECUTIONS. *See* CONTESTED ELECTIONS.

How to be endorsed, 106.
Duty of Sheriff, 106.
When a rate to be struck, 107.
Precept to levy, 107.
Rate how collected, 107.
Surplus, if any, how disposed of, 108.
Clerk an Officer of Court, 108.

EXHIBITIONS.

To regulate or prevent. *See* BY-LAWS, 9.

EXISTING CORPORATIONS.

Continued, 2.

FALSE DECLARATIONS.

Wilful making, perjury, 230.

FAST DRIVING. *See* ROADS, 7, 8.

FEE FUND.

Returns of, to Government. *See* RETURNS.

FENCES. *See* LINE FENCES.

FENCE VIEWERS.

Appointment of, 124.

FERGUS.

Incorporated as a Village, 656.
Boundaries of Village, 656.

FERRIES. *See* BY-LAWS, 13.

Lessees not to be interfered with, 289.
Penalty for so doing, 289.
Right of, to use private boats, 289.
Committal of offenders, 289.
Licenses to be under Great Seal, 289.
Appeal to persons aggrieved, 290.
Limits of Ferries, 290.
To be leased by public competition, 291.
Licenses for Steamers, 613.
To be by Governor, 614.
Period of licenses, 614.
Power to sublet, 614.
Preference as between Municipalities, 614.
Residence within Province required on part of lessee, 614.

FINANCIAL AFFAIRS.

May be investigated. *See* COMMISSIONERS.

FIRES. *See* BY-LAWS, 15. POLICE VILLAGES, 2.

FIRE INQUESTS,

When to be held, 622.
Allowance to Coroner, 623.

FIREMEN.

Exempt from Municipal Offices, 33, 347.
Encouragement of, 156.
When exempt from serving as jurors, 254, 347.
When exempt from Militia, 254.

FIRING GUNS, SQUIBS, &c. *See* BY-LAWS, 15.

FLAMBOROUGH WEST.

Survey in, 243.

FORESTALLING, &c. *See* BY-LAWS, 15.

FORT ERIE.

Incorporated as a Village, 654.
Boundaries of Village, 654.

FOUNTAINS, WELLS, PUMPS, &c. *See* BY-LAWS, 15.FRANCHISE. *See* REGISTRATION OF VOTERSFRAUDS. *See* ASSESSMENTS, 9.—OFFICERS, 6.

FREDERICKSBURGH.

Survey in, 243.
Same as to Gore, 247.
Divided into two Municipalities, 659.

FRONTENAC.

- Of what Townships composed, 430.
- A County for representation in Assembly, 489.
- Part of Cataraqui division in Council, 613.

FURNACES. *See* POLICE VILLAGES, 2.

GALWAY (TOWNSHIP).

- Attached to Peterborough, 632.

GALT.

- Incorporated as a Town, 586.
- Boundaries of Town, 586.
- Division of, into five wards, 587.

GAMBLING.

- Suppression of. *See* BY-LAWS, 12.

GAME.

- Time for killing deer, 596.
- turkeys, 596.
- quail, 596.
- woodcock, 597.
- waterfowl, 597.
- Penalty for having Game at unlawful times, 597.
- Prosecution and recovery thereof, 597.
- Application of penalty, 597.
- Indians exempt. 597.

GAOL. *See* ADMINISTRATION OF JUSTICE, 2.

- Acquirement of property for, 19.
- Erection of, by whom, 19.
- Appointment of surgeons to, 148.

GAOLER.

- Disqualified to be member of Council, 32.

GAOL LIMITS.

- Effect of separation of Counties on, 24.

GAS. *See* BY-LAWS, 9..

GAZETTE.

- Lands to be sold for taxes to be advertised in, 525.

GEORGINA (TOWNSHIP).

- Annexed to County York, 479.
- Provision as to share of Ontario debt, 480.
- Mission of Church of England authorized to sell certain lands in, 662.

GLEN GARRY (COUNTY.)

- Of what Townships composed, 429.
- A County for representation in Assembly, 489.
- Part of Eastern Division for Council, 613.

GLOUCESTER (TOWNSHIP).

- Annexed to Russell for representation, 489.

GODERICH (TOWN).

Boundaries, wards, &c., 361.

Power to apply an unexpended balance of money, 642.

Confirmation of a conveyance by, of portion of market block, 642

GORE.

Electoral Division of Legislative Council, 612.

GORE OF CAMDEN.

Certain lots in, added to Euphemia and Dawn, 688.

Debts due not affected, 689.

GORES.

Annexation of, to Townships, 15, 323.

GOVERNING LINES. *See* SURVEYS, 2.

GOVERNMENT.

Officers of, exempt from Municipal offices, 33.

GOVERNMENT LOANS.

Sale of. *See* PUBLIC WORKS, 1.

GOVERNOR, &c.

Interpretation of the word, 317.

GRAMMAR SCHOOLS.

Apportionment of moneys, 546.

Duty of Chief Superintendent, 546.

Times for payment, 546.

How to be expended, 546.

Obtaining land for. *See* BY-LAWS, 13.GRAND JURORS. *See* JURORS, 1.

GRAND RIVER.

G. S. Wilkes authorized to construct a dam over, 660.

GRAND TRUNK RAILWAY. *See* RAILWAYS, 2.GRAVES. *See* BY-LAWS, 9.

GRENVILLE (COUNTY).

Of what Townships composed, 430.

United with Leeds for representation in Assembly, 487.

Part of St. Lawrence for Legislative Council, 613.

GRENVILLE (TOWNSHIP).

Boundary line of, established, 555.

GREY.

Of what Townships composed, 431.

A County for representation in Assembly, 489.

Part of Saugeen Division for Legislative Council, 612.

GUNPOWDER.

Regulation of. *See* BY-LAWS, 2, POLICE VILLAGES, 15.

HACKNEY COACHES.

Regulation of. *See* BY-LAWS, 15.

HALDIMAND (COUNTY).

Of what Townships composed, 355, 432.
 A County for representation in Assembly, 489.
 Part of Erie Division in Council, 612.

HALDIMAND (TOWNSHIP).

Certain road allowances vested in different parties, 588, 660, 661.

HALLOWELL (TOWNSHIP).

Boundary between it and Sophiasburgh altered, 385.

HALTON (COUNTY).

Of what Township's composed, 355, 431.
 A County for representation in Assembly, 489.
 Part of Home Division for Legislative Council, 612.

HAMILTON (CITY).

Boundaries, Wards, &c., 364.
 An electoral division for Assembly, 490.
 Power to enclose a certain Gore, 475.
 Limitation of taxation on certain lands, 688.

1. Consolidation of debt—

Authorized to borrow for purposes of, 477,
 Debentures, how to be issued, 477.
 Appropriation of money to be raised, 477.
 Sinking fund constituted, 478.
 Investment and application thereof, 478.
 By-laws not to be repealed till debt paid, 478.
 Aid to Great Western Railway, 478.
 Power to repeal a certain by-law, 479.
 Moneys raised, where to be deposited, 479.

2. Power to negotiate a loan of £50,000, 581, 639.**3. Water Works—**

May be constructed in, 592.

HAMILTON (TOWNSHIP).

Certain road allowance vested in John Wade and Benjamin Seymour, 588.

HARBORS.

Regulation of. *See* BY-LAW, 13.

HASTINGS (COUNTY).

Of what Townships composed, 432.
 Divided into two Ridings for representation in Assembly, 486.
 North Riding part of Trent Division for Council, 612.
 South Riding part of Quinte Division for same, 613.

HAWKERS.

Licenses of, 148.

HAWKESBURY.

Survey in, 269.

HAY, STRAW, &c. *See* POLICE VILLAGES, 2.

HEADS.

- Of Councils, how designated, 28.
- how chosen, 64.
- Resignation, 68.
- Vacancies how filled, 68.
- When ex-officio Directors of Gas or Water Co's, 133.

HEALTH. *See* POLICE VILLAGES—PUBLIC HEALTH.

HEALTH OFFICERS. *See* POLICE VILLAGES—PUBLIC HEALTH.

HER MAJESTY.

Interpretation of the words, 317.

HIGH BAILIFF. *See* ADMINISTRATION OF JUSTICE, 10.

HIGHWAY. *See* ROADS.

Interpretation of the word, 231.

HILLIER.

Provisions as to survey in, 583.

HOME.

Elective Legislative Council Division, 612.

HOPE.

Survey in, confirmed, 671.

HORSE RACING. *See* BY-LAWS, 12.

HOUSEHOLDER.

Definition of, 76; note *d*.

HOUSES OF ILL-FAME.

Suppression of. *See* BY-LAWS, 12.

HOUSES OF INDUSTRY AND REFUGE. *See* ADMINISTRATION OF JUSTICE, 14.

HURON.

Mill-dams in, 290.

Division of, 382.

Of what Townships composed, 432.

United with Bruce for representation in Assembly, 485.

Part of Tecumseth Division for Council, 612.

IMPOUNDING.

Animals. *See* POUNDS.

IMPROVED LANDS. *See* EJECTMENT.

INCORPORATED VILLAGES. *See* VILLAGES.

INCORPORATION. *See* VILLAGES.

INDECENCY. *See* BY-LAWS, 12.

INDIANS. *See* GAME.

Spirituuous Liquors not to be sold to, 252.

Fine for contravention, 252.

How collected, 252.

Other penalties, 252.

Pawn not to be taken for liquor, 412.

INDIANS——(*continued.*)

Lands from, how to be purchased, 410.
 When a misdemeanor, 410.
 Confessions of judgment not to be taken, 411, 618.
 Taxes not to be assessed on, 411.
 As to performance of Statute labor, 411.
 Presents not to be purchased, 412.
 Commissioners, Justices of the Peace, 413.
 Who to reside on Indian lands, 413.
 Removal of persons contravening, 414.
 Proceedings if persons removed return, 414.
 Arrest of such person, 415.
 No certiorari allowed, 415.
 Punishment for cutting timber, 415.
 Penalty for such offence, 415.
 Imprisonment when, 415.
 Application of penalties, 416.
 Proceedings where name of offender not known, 416.
 Sheriff to open process, &c., 417.

INDUSTRY (HOUSES OF.) *See* BY-LAWS, 16.

INDUSTRIAL FARMS. *See* BY-LAWS, 13, 16.

INGERSOLL. By-laws of, legalized, 670.

INNKEEPERS. Licenses to. *See* BY-LAWS, 9.
 Disqualified to be members of Councils, 32.

INOCULATION. *See* SMALL POX.

INSANE. *See* LUNATICS.

INSOLVENCY.
 Disqualification as to Member of Council, 32.

INSPECTORS.

1. *Of Licenses*—
 How appointed, 131.
 Duties, 131.
 General Powers, 131.
2. *Of Weights and Measures*—
See WEIGHTS AND MEASURES.
3. *Of Houses of Industry*—
 Appointment of, 148. *See* BY-LAWS, 13.
4. *Of Prisons*—
 Board of Five, 619.
 Their duties, 619.
 Powers as to Gaols, 620.
 Duty of County Councils in respect thereof, 621.
 Rules for government of Gaols, 622.

INTELLIGENCE OFFICES. Regulation of. *See* BY-LAWS, 16.

INTERPRETATION ACT, (12 Vic., Cap. 10,) 315.

- Date of Royal assent to Act, how shewn, 316.
- Governor to be a Corporation, 316.
- "Her Majesty, &c.," how construed, 317.
- "Governor, &c.," 317.
- "Lower Canada, &c.," 317.
- "Upper Canada, &c.," 317.
- "United Kingdom, &c.," 317.
- Singular number, when Plural, 317.
- Masculine, when Feminine, 317.
- "Word, Person," 317.
- "Writing, Written, &c.," 317.
- "Now, Next, &c.," 318.
- "Oath," 318.
- "Registrar, Register, &c.," 318.
- Wilful contravention of Act, a misdemeanor, 318.
- Recovery and distribution of penalties, 318.
- Moneys levied for Crown, how applied, 319.
- Moneys appropriated, how payable, 319.
- "Magistrate, Justice &c.," 319.
- Power to commit, &c., 319.
- Power of appointing, removing, 320.
- Words creating a Corporation, 320.
- As to Banking, 320.
- Rights of Crown saved, 320.
- Public Acts, 321.
- Private Acts, 321.
- Evidence thereof, 321.
- All Acts remedial, 321.
- Rules of construction, 321.

INTERPRETATION CLAUSE OF MUNICIPAL ACT.

- "Municipality," 230.
- "Council," 231.
- "County," 231.
- "Township," 231.
- "Land, Lands, Real Estate," 231.
- "Highway, Road, Bridges," 231.
- "Electors," 231.
- "Reeve," 231.
- "Next Day," 231.

JOINT OWNERS, &c. See ELECTORS.**JUDICIAL PROCEEDINGS. See ADMINISTRATION OF JUSTICE.****JUDGES.**

- Appointment of for Provisional Municipality, 21.
- Disqualified to be members of Council, 32.
- Exempt from being same, 33.

JUGGLERS' EXHIBITIONS.

Regulation of. *See* BY-LAWS, 12.

JUNIOR.

1. *Townships*, 16.
2. *Counties*, 17.

JURORS (PAYMENT OF).

1. *Grand Jurors*—

Funds to be provided by County Councils, 683.

2. *Petit Jurors*—

Amount of allowance, 683.

How ascertained, 683.

Not entitled to other emoluments, 683.

Duty of Sheriff to make pay lists, 683.

Treasurer to pay, 684.

Allowance to Sheriff, 684.

What to be done with list when court opens, 684.

Neglect to attend—fine, 684.

3. *Fund for*—

Fees on entry of records, 684

Provision in criminal cases, 684,

Certain fines to go to, 685.

County to supply deficiency, 685.

Duty of Treasurer as to Sheriff, 685.

Cities bound to contribute, 685.

Deductions to be made from must be expended, 686.

Portions to be borne by city, 686.

Assessed annual value, amount thereof, 686.

Necessary funds to be raised by warrant, 686.

JUSTICE (COURTS, &c.)

Officer exempt from Municipal office, 33.

JUSTICES OF THE PEACE. *See* ADMINISTRATION OF JUSTICE, 1.

Appointment of, for Provisional Municipalities, 21.

KEEPER.

Of House of Correction disqualified to be member of Council, 32.

KEMPTVILLE (VILLAGE).

Incorporated, 609.

Reeve entitled to sit in County Council, 650,

To have proportion of certain railway stock, 650.

Village boundaries, 668.

KENT.

Of what Townships composed, 432.

A County for representation, 489.

Part of Western Division for Legislative Council, 612.

KING.

Survey in, 250

KINGS.

Electoral Division Legislative Council, 612.

KINGSTON (CITY).

1. *General matters*—

Boundaries, Wards, &c., 365.

An Electoral Division, 490.

Part of Cataraqui in Legislative Council, 613.

KINGSTON CITY—(*continued.*)2. *Consolidation of Debt.*

- Authorised to borrow for purpose of, 472.
- Issue of Debentures, 473.
- Appropriation of loan, 473.
- Where moneys to be deposited, 473.
- Appropriation of part to erect new railways, 473.
- Power to repeal a certain by-law, 474.
- Sinking Fund constituted, 474.
- By-law not to be repealed till debt paid, 474.

KINGSTON (TOWNSHIP).

- Part of it attached to Pittsburgh, 555.

LADDERS. *See* POLICE VILLAGES, 2.

LAMBTON (COUNTY).

- Of what townships composed, 432.
- A County for representation in Assembly, 489.
- Part of St. Clair for Legislative Council, 612.

LANARK (COUNTY).

- Of what Townships composed, 429.
- Divided into two ridings for representation in Assembly, 487.
- Both ridings part of Bathurst for representation in Council, 612.

LANCASTER.

- Survey in, 245.

LAND.

- Interpretation thereof, 231.

LAND MARKS. *See* BY-LAWS, 9—SURVEYS, 2.

LAW SOCIETY.

- Members of, exempt from Municipal offices, 33.

LAW SUITS.

- By or against corporations. *See* MUNICIPAL COUNCILS.

LEASEHOLD.

- How construed as to qualifications, 31.

LEEDS (COUNTY).

- Of what townships composed, 430.
- United with Grenville for representation in Assembly, 487.
- South riding part of Bathurst, for Legislative Council, 613.
- North Riding part of St. Lawrence, for Legislative Council, 613.

LEEDS AND LANSDOWN (TOWNSHIPS.)

- Divided, 384.

LEGISLATIVE ASSEMBLY. *See* REPRESENTATION.LEGISLATURE. *See* REPRESENTATION.

- Officers of it exempted from Municipal offices, 33.

LENNOX (COUNTY.)

Of what townships composed, 430.

United with Addington for representation in Assembly, 485.

Part of Trent for Legislative Council, 613.

LICENSES. *See* BY-LAWS, 9.

When not required to be renewed, although by law repealed, 132.

License fee, how applied, 133.

LIME.

Rest to be deposited in house. *See* POLICE VILLAGES, 2.

LIGHTING TOWNS, &c. *See* BY-LAWS, 9.

LINCOLN (COUNTY.)

Of what townships composed of, 433.

A County for representation in Assembly, 489.

Part of Niagara for representation in Council, 612.

LINDSAY (TOWNSHIP.)

Incorporated as a Town, 646.

Boundary of Town, 647.

Division into three wards, 647.

LINE FENCES AND WATER COURSES.

Appointment of Fence-Viewers, 277.

Powers of Fence-Viewers, 278.

Award, how made and enforced, 278.

Penalty if either party neglects to fence, 279.

Payment, how enforced, 279.

Duty of Fence-Viewers as to report, 280.

Summoning witnesses, 280.

False-swearing, perjury, 281.

Transmission of report, 281.

Issue of execution thereon, 281.

Provision if lands left in common, 281.

When party may remove his fence, 282.

Provision as to water fences, 282.

Duty of Fence-Viewers as to same, 282.

Penalty for not obeying award, 282.

Power as to ditches, &c., 282.

Provision where water-course crosses land of person not interested, 283.

Provision if party neglect to make his share of water-course, 283.

Fees for services, 284.

Fees paid to be included in execution, 284.

Interpretation clause, 284.

LIVERY STABLES.

Licensing, 156.

LOANS. *See* BY-LAWS, 7.—CONSOLIDATED MUNICIPAL LOAN FUND.—DEBENTURES.—DEBT.LOCAL RATES. *See* ROADS.LOCK-UP HOUSES. *See* ADMINISTRATION OF JUSTICE, 13.

LONDON (CITY).

Boundaries wards, &c., 362.

An electoral division for Legislative Assembly, 490.

Part of Malahide for Legislative Council, 612.

1, *Consolidation of debt*—

May raise £63,000 for, 602.

Form of Debentures, 602.

Application of money so raised, 602.

Certain debentures may be called in, 602.

New debentures to be substituted, 602.

When by-laws may be repealed, 604.

Provision for sinking fund, 604.

Investment of sinking fund, 604.

By-laws not to be repealed till debt paid, 604.

Assessment for certain sewers authorized, 604.

How money collected to be invested, 605.

Money, where to be deposited, 605.

How to be dealt with, 605.

Rates of 1853 confirmed, 605.

Certain debentures not to be affected by by-laws, 605.

2. *General matters.*

Portion of Church Street vested in Board of Works, 555.

Portions of certain Streets vested in G. W. R. Co., 556.

Certain lands vested in Agricultural Societies of Middlesex and Elgin, 610.

Power to sell and convey Pottersfield, 639.

Portions of Bathurst Street vested in London and Port Stanley R. R. Company, 671.

LONDON (TOWNSHIP).

Certain road allowance vested in John Macara, 660.

LOTTERIES.

Penalty for making or publishing schemes, 588.

How enforced, 589.

How applied, 589.

Penalty for buying, &c., tickets, 589.

Sales, gifts, &c., on lotteries, void, 589.

Provision as to purchasers, without notice, 589.

Penalties, how enforced, 589.

Publication of foreign lottery schemes embraced, 590.

Interpretation clause, 590.

Appeals from convictions, 590.

Bona fide division of property not embraced, 590.

LOUTH (TOWNSHIP).

Survey in, 248.

LOWER CANADA.

Interpretation of the words, 317.

LUNATIC ASYLUM TAX.

Discontinued, 615.

LUNATICS.

Jury acquitting, to state so in verdict, 451.
 Disposal of person so acquitted, 451.
 Governor to make final disposition, 451.
 Similar provisions as to persons indicted and found insane, 452.
 Dangerous, how to be confined, 452.
 Place of settlement, 453.
 Goods, lands, &c., to be seized, 453.
 Otherwise a charge on Municipality, 453.
 Prerogative of Queen, &c., not abridged, 453.
 Provision for maintenance, 453, 454.
 Settlement, how gained, 455.

MAGISTRATE.

Interpretation of the word, 319.

MAGISTRATES. *See* JUSTICES OF THE PEACE.MANDAMUS. *See* CONTESTED ELECTIONS.

Courts may grant or refuse costs, 106.

MARKETS. *See* BY-LAWS, 15.

MARLBOROUGH.

Certain road allowance vested in Daniel Barritt, 588.

MARRIAGES. *See* MATRIMONY.

MASCULINE GENDER.

When words of, feminine, 317.

MATRIMONY.

Former marriage confirmed, 690.
 Method of preserving testimony, 691.
 Former, not valid in certain cases of subsequent contract, 692.
 Ministers of certain denominations authorized to celebrate, 692.
 Certain certificates to be obtained by, before solemnization, 692.
 Publication of banns, 693.
 License if no banns, 693.
 Certificate of, to be given, 693.
 Return of, to be made to Clerk of Peace, 693.
 Duty of Clerk of Peace, 694.
 Penalties for neglect of duty, 694.
 Clergy of Evangelical Association may marry, 285.
 Extended to Ministers of all denominations, 303.
 Certain conditions precedent required, 304.
 Oath of allegiance, 304.
 Certificate of appointment, 304.
 Record of such oaths to be kept, 304.
 Not necessary for Minister to appear before Quarter Sessions, 304.
 Ministers of Evangelical Lutheran Church may solemnize, 563.
 Provision if Minister changes his congregation, 565.
 Laws as to Registers to be observed, 565.
 Marriage by Ministers qualified though without license, valid, 575.
 Minister of any denomination may celebrate, 624.
 Certificate to be given if required, 624.
 Fee for certificate, 624.

MATRIMONY—(*continued.*)

Entry of particulars to be made in book, 624.
 Returns to be made to County Registrar, 624.
 Duties of Registrar in respect thereof, 625.
 Fees to Registrar, 625.
 Fees to Ministers, 625.
 Fines for neglecting to certify, &c., 625.
 Duties of successor to make returns, &c., 625.
 Punishment if not Minister for celebrating, 626.
 Onus of proof in such case, 626.
 Punishment for aiding, abetting, &c., 626.
 Quakers' marriage valid, 626.
 Returns, by whom to be made, 626.
 Duty of Clerk of the Peace, 626.
 Form of returns of Marriages, 628.

MAYORS.

Of cities and towns, 28, 47.
 To be chosen by the people, 47.

1. *Qualification*, 47.
2. *Nomination*, 47.
3. *Election*, 47.

Clerk to preside, 47.
 His powers, 47.
 His duty when only one candidate, 47.
 When more than one candidate, 48.
 Duration of poll, 48.
 To declare result, 51.
 General duties of returning officer, 48.
 To return poll-book to clerk, 49.
 To declare result, 49.
 When no majority for any candidate, 49.
 When to subscribe declaration of office, &c., 50.
 Business at meeting, 50.
 When votes equal, 50.
 When no return from one or more wards, 51.

4. *Duties of Mayor*, 52.

MEDICAL PROFESSION.

Members of, exempt from Municipal offices, 33.

MEETINGS. *See* MUNICIPAL COUNCILS, 6.

MEMBERS OF COUNCILS. *See* MUNICIPAL COUNCILS.

MERRITTSVILLE. *See* WELLAND.

METHODISTS. *See* RELIGIOUS SOCIETIES.

MIDDLESEX (COUNTY.)

Of what Townships composed, 432.
 Divided into two Ridings for Representation in Assembly, 486.
 West Riding, part of St. Clair for Council, 612.
 East Riding, part of Malahide for same, 612.

MIDLAND.

A Division for Elective Legislative Council, 612.

MILITARY PENSIONERS. *See* PENSIONERS.

MILITIA. *See* PENSIONERS.

MILL DAMS. *See* RIVERS, 2.

MILLERS.

Exempt from Municipal Offices, 33.

MILLS.

Rate of Toll allowable, 238.

Penalty for contravention, 238.

How levied and applied, 238.

Bags to be marked, 239.

Damages for overflowing by Dams, 417.

Pleading, 417.

MILTON.

Incorporated as a Town, 644.

Boundaries of Town, 644.

Division into three Wards, 644.

MISDEMEANOR.

Contravention of certain Acts, 318.

MITCHELL.

Incorporated as a Village, 688.

Boundaries thereof, 688.

MONAGHAN (TOWNSHIP).

Certain Road allowance confirmed, 556.

Act Repealed, 584.

MONUMENTS. *See* SURVEYS, 2.

MONTAGUE AND NORTH ELMSLEY.

Boundary between, defined, 386.

MORTALITY.

Bills of to be kept. *See* By-laws, 15.

MUNICIPAL COUNCILS. *See* EXECUTIONS, PATRIOTIC FUND.

1. *How composed—*

Heads of all Councils, 28.

Members in Cities, 28.

“ in Towns, 29.

“ in Incorporated Villages, 29.

“ in Townships, 29.

“ in Counties, 30.

2. *Qualification of Members—*

In Townships, 31.

New “ 32.

Police Villages, 31.

Incorporated Villages, 31.

Towns, 31.

Cities, 31.

3. *Disqualifications*, 32.

4. *Exemptions*, 33.—

MUNICIPAL COUNCILS—(*continued.*)5. *Vacation of Seats*—

- Crime, 52.
- Bankruptcy, 52.
- Debt, 52.
- Absence for three Months, 52.

6. *Meetings.*

- Time of First Meeting, 64.
- Place therefor, 64.
- How to organize, 64.
- Election of head, 64.
- Clerk to preside, 65.
- Who, if no Clerk, 65.
- Who to have casting vote, 65.
- Election of Reeves and Deputy Reeves, 65.
- Subsequent meetings, 66.
- Time and place, 66.
- In the case of cities, 66.
- Ordinary meetings open to public, 66.
- Special meetings, 66.
- Quorum, 67.
- Power to adjourn, 67.
- Head to preside, 67.
- Duty to summon special meetings, 67.
- Who to preside when no Head, 67.
- When Council may chose presiding officer, 68.
- Election of chairman, 68.
- Head, &c., to vote, 68.
- Resignation of Head, &c., 69.
- Election of Treasurer, 69.
- Resignation of member, 69.
- Payment of members—when, 138

7. *Jurisdiction*—

- Local, 83.
- Powers to be exercised by by-law, 84.
- Power to make regulations, 85.
- By-laws. *See* BY-LAWS.

8. *Restrictions*—

- Not to act as bankers, 103.
- Not to issue bonds, bills, &c., 103.
- No debenture to be less than \$100, 104.
- Penalty for contravention, 104.
- Not to grant monopolies, 104.
- But right to ferry grantable, 105.

9 *Returns to Government*—

See RETURNS.

MUNICIPAL LOAN FUND. *See* CONSOLIDATED MUNICIPAL LOAN FUND.

MUNICIPALITY.

Interpretation of the word, 230.

MURRAY (TOWNSHIP).

Part detached, 435.

NATURALIZATION. *See* ALIENS.

NAVAL PENSIONERS. *See* PENSIONERS

NEWCASTLE.

Elective Legislative Council Division of, 613.

NEW HAMBURG.

Incorporated as a Village, 655.

Boundaries of Village, 655.

NEWMARKET.

Incorporated as a Village, 652.

Boundaries of Village, 652.

Limitation of taxes, 652.

NEW MUNICIPALITIES.

Counties, 4, 5, 17.

Townships, 5, 14.

Incorporated Villages, 1, 6.

NEXT.

Interpretation of the word, 318.

NEXT DAY.

Interpretation of the words, 231.

NIAGARA.

Elective Legislative Council, Division of, 612.

NIAGARA (TOWN).

Boundaries, Wards, &c., 362.

With Township of, an Electoral Division for Assembly, 490.

Survey in, 247.

Part of Niagara Division for Legislative Council, 612.

NIAGARA (TOWNSHIP).

Portion of original survey confirmed, 584.

NICHOL.

Part detached, 435.

Road allowance vested in John Matre, 661.

MISSOURI (EAST AND WEST).

New Townships, 634.

NON-RESIDENTS. *See* ASSESSMENTS, 8.

NORFOLK (COUNTY).

Of what Townships composed, 355, 432.

A County for representation in Assembly, 489.

Part of Thames Division for Legislative Council, 612.

NORWICH.

Survey in, 250.

Divided into two Municipalities, 584.

NORTH DORCHESTER.

New Township, 434.

Part detached, 435.

NORTH DUMFRIES.

New Township, 434.

NORTH ELMSLEY AND MONTAGUE.

Boundary between defined, 386.

NORTH GWILLIMBURY.

Survey in, 247.

NORTHUMBERLAND (COUNTY).

Of what Townships composed, 431.

Divided into two Ridings for representation in Assembly, 431.

Both Ridings part of Newcastle for Legislative Council, 613.

NOTES.

Municipal Councils not to issue. *See* MUNICIPAL COUNCILS, 8.

NOTICE OF ACTION.

When By-law, &c., quashed, 98.

NOW.

Interpretation of the word, 318.

NUISANCES.

Regulation of. *See* BY-LAWS, 15.

OAKVILLE.

Incorporated as a Town, 645.

Boundaries of Town, 645.

Division into three wards, 645.

OATHS. *See* ELECTORS, OFFICIAL OATHS AND DECLARATIONS.

How the word interpreted, 318.

OBSCENE LANGUAGE, &c.

To prevent. *See* BY-LAWS, 12.

OBSTRUCTIONS. *See* RIVERS, 1.

Power to remove. *See* ROADS, 3.

OCCUPANTS. *See* ELECTORS.

OFFENCES.

Against By-laws. *See* BY-LAWS, 6.

OFFICIAL OATHS AND DECLARATIONS.

Oath of allegiance, 398.

Oath performance of duties, 398.

Who to administer, 398.

When to be taken, 399.

Affirmation instead of oath, when, 399.

Its effect, 399.

By whom to be administered, 399.

Sacrament need not be taken, 399.

Property declaration, 79.

Form thereof, 79.

Declaration of office, 80.

Form thereof, 80.

When necessary to deny interest in contract, &c., 80.

OFFICIAL OATHS AND DECLARATIONS—(*continued.*)

- Auditor's declaration, 80.
- Before whom to be made, 81.
- Certificate thereof, 81,
- When Heads of Councils may administer, 81.
- To be subscribed, 81.
- Penalty for refusing to accept office or take declaration, 82,
- Proceeding for, 101.
- False, perjury, 230.

OFFICERS. *See* ASSESSMENTS, 9.

1. *General matters—*

- To continue although municipality raised, as village to town &c. 12.
- Provisional, 19.
- Disqualified to be members of Councils, 32.
- Exemptions, nature of tenure, 33.
- Remuneration, 78, 79.

2. *The Clerk—*

- His general duties, 69.
- To make returns to Receiver General, 70.
- Penalty for default, 71.
- To make returns to County Clerk, 71.
- Nature thereof, 71.
- County Clerk to make returns to Provincial Secretary, 73.
- So Clerks of cities, 73.
- Provincial Secretary to lay returns before Parliament, 73.
- To print auditors report, 78.
- Other duties of Clerks. *See* BY-LAWS—ELECTIONS—MAYORS.

3. *Chamberlain and Treasurer—*

- How appointed, 74.
- To give security, 74.
- His general duties, 74.
- To make certain annual returns, 74.
- Penalty for default, 75.
- Remuneration, 79.

4. *Assessors and Collectors—*

- How appointed, 75.
- Qualification, 75,
- Duties of Assessor, 76.
- Collectors of Provisional County, 76.
- Money, how disposed of, 76.
- See also* ASSESSMENTS, 37.

5. *Auditors—*

- How appointed, 76.
- Qualification, 76.
- General duties, 77.
- Council to make final audit, 78.
- Audit of County Council, 78.
- Form of declaration, 80.

6. *Embezzlement by—*

- When offence complete, 82.
- Prosecution, 82.
- Punishment, 83.

OFFICERS—(*continued.*)

Civil remedy not affected, 83.

Fence-Viewers, Inspectors of Licenses, Overseers of Highways,
Pound Keepers, Road Surveyors. *See* those titles.

ONONDAGA.

Certain survey confirmed, 610.

ONTARIO (COUNTY).

Of what townships composed, 431.

Divided into two ridings for representation in assembly, 487.

South riding, part of King's division in Legislative Council, 612.

North Riding, part of Queen's division in same, 612.

ONTARIO (LAKE).

Stone not to be removed from part of beach, 631.

Arrest and punishment of offenders, 631.

Liability of Masters of craft offending, 632.

Application of fines, 632.

To what cases Act is applicable, 632.

ORCHARDS.

Roads not to run through, &c. *See* ROADS.

ORDNANCE LANDS,

Roads not to run through, *See* ROADS—

ORIGINAL LINES. *See* SURVEYS, 2.ORIGINAL ROAD ALLOWANCES. *See* SURVEYS, 2.

ORPHANS.

Power to bind, 246.

Exemptions, 240.

Further exemptions, 240.

OSGOODE (TOWNSHIP).

Surveys in, 326, 420.

Added to County of Russell for representation in Assembly, 489.

OTANABEE.

Aprons to dams in, 376.

Power to change a concession road, 561.

OTTAWA (CITY).

1. *General matters*—

Boundaries and wards, 358, 560

An electoral division for Assembly, 490.

Part of Rideau for Council, 612.

2. *Consolidation of Debt*—

May borrow £30,000, 640.

Issue of Debentures therefor, 640.

Form of debentures, 640.

Application of money to be raised, 640.

Power to call in outstanding debts, 641.

OTTAWA (CITY)—(*continued.*)

- Special rate for Sinking Fund, 641.
- Investment and application of Sinking Fund, 641.
- When certain by-laws to be repealed, 641.
- Certain by-laws not to be submitted to electors, 641.

OVERSEERS OF HIGHWAYS.

- Appointment of, 124.

OWEN'S SOUND.

- Incorporation of, 587.
- Boundaries of Town, 587.
- Division into three wards, 587.

OXFORD (COUNTY).

- Of what townships composed, 432.
- Divided into two ridings for representation in Assembly, 486.
- North riding part of gore division in Legislative Council, 612.
- South Riding part of Thames' division in same, 612.

OXFORD (TOWNSHIP).

- Survey in, 246.
- Road allowance vested in John Christie, 661.

PARIS.

- Incorporated, 581.
- Limits thereof, 581.
- Wards thereof, 582.

PARLIAMENTARY REPRESENTATION. *See* REPRESENTATION.PATH MASTER. *See* LINE FENCES—ROADS.PAYMENT OF JURORS. *See* JURORS.

PATRIOTIC FUND.

- Grants for, legalized, 566.

PEDLERS.

- Licenses to, 148.

PEEL.

- Of what Townships composed, 431.
- A County for Representation in Assembly, 489.
- Part of Home Division for Legislative Council, 612.

PEMBROKE.

- Incorporated as a Village, 667.
- Boundaries thereof, 667.

PENALTIES.

- Recovery and Distribution of, 318.
- How levied, 318.
- For not taking oath of Office. *See* OFFICIAL DECLARATION.
- For making or uttering Bonds or notes. *See* MUNICIPAL COUNCILS, 8.
- For breach of By-laws. *See* BY-LAWS, 6.
- For not holding Elections. *See* ELECTIONS.
- For selling Liquors at Public Works. *See* PUBLIC WORKS.
- For neglect of Assessment Duties. *See* ASSESSMENTS, 9.
- For Fast Driving. *See* ROADS, 7, 8.

PENALTIES—(continued.)

For neglect to make returns to Government. *See* RETURNS.
 For Lotteries. *See* LOTTERIES.
 For infringing Game Laws. *See* GAME.

PENSIONERS.

To be enrolled as local police force, 449.
 When enrolled to be constables, 449.
 Allowance when on duty, 449.
 Exemptions from office, &c., when on duty, 449.
 Superintendent a Justice of the Peace, 450.
 Free grants of lands to, 450,
 Officers in command, Justices of the Peace, 450.
 Not to act as such in certain cases, 450.
 Who "Chief Magistrate" in such cases, 451.

PERJURY. *See* FALSE DECLARATIONS.

PERSON.

Interpretation of the word, 317.

PERTH (COUNTY).

Of what Townships composed, 432.
 Separation from Huron and Bruce, 472.
 A County for representation in Assembly, 489.
 Part of Tecumseth Division for Council, 612.

PETERBOROUGH (COUNTY).

Of what Townships composed, 431.
 A County for Representation in Assembly, 489.
 Part of Trent Division for Council, 613.
 New Townships added to, 664.

PETERBOROUGH (TOWN).

Boundaries, wards, &c., 363.

PETERBOROUGH AND VICTORIA.

Vote of rate-payers on dissolution, 598.
 Duty of Returning Officer, 598.
 Proceedings if majority for dissolution, 598.
 Lindsay, County Town, 599.
 Power to purchase requisite lands therein, 599.
 Proclamation for dissolution when to issue, 599.
 County Officers to be appointed, 599.
 First meeting of Provisional Council, 599.
 Person to preside at election of Provisional Warden, 599.

PETTY CHAPMEN.

Licensing of, 148.

PHYSICIANS.

Exempt from Municipal offices, 33.

PICKERING.

Road allowance vested in C. C. Small, 662.

PICTON.

Boundaries and wards, 404, 459.

PILKINGTON.

New Township, 434.

PITS AND PRECIPICES. *See* ROADS, 2.

PITTSBURGH (TOWNSHIP).

Part of Township of Kingston added to, 555.

PLANS.

Of villages to be registered. *See* SURVEYS, 2.

PLANTAGENET.

Survey in, 306.

PLEASURE GROUNDS.

Roads not to pass through. *See* ROADS.

POLICE. *See* ADMINISTRATION OF JUSTICE and POLICE—BY-LAWS, 16.

POLICE OFFICE. *See* ADMINISTRATION OF JUSTICE, 2.

POLICE MAGISTRATE. *See* ADMINISTRATION OF JUSTICE, 4.

POLICE VILLAGES.

1. *General Provisions—*

Existing, continued, 3.

New, 5.

Trustees, three in number, 30.

One to be Inspecting Trustee, 30.

Qualification, 31.

Election. *See* ELECTION,

Returning Officer. *See* RETURNING OFFICER,

Inspecting Trustee, his appointment, 163.

Appointment, if necessary, 164.

Penalty on Trustee for neglect of duty, 164.

When to be sued for, 164.

Justices to sue for penalties, 164.

Application of penalties, 165.

Trustees to be health officers, 165.

2. *Police Regulations—*

Fire ladders to be kept, 165.

So fire buckets, 166.

Regulation as to furnaces, 166.

Same as to stove-pipes, 166.

Same as to lights in stables, 166.

Description of chimneys, 166.

Carrying fire through streets, 166.

Lighting fires in streets, 166.

Placing hay in dwelling houses, 166.

Keeping of ashes, 166.

Same of lime, 166.

Furnaces for making charcoal, 166.

Sale of gunpowder, 167.

Hours for sale thereof, 167.

Throwing filth in streets, 167.

How regulations enforced, 5.

POLL-BOOKS. *See* ELECTIONS, MAYORS.

POLLING-PLACES. *See* ELECTIONS.

POOR. *See* BY-LAWS, 16—TOWNSHIPS.

POPULATION. *See* CENSUS—TOWNSHIPS.

PORT HOPE.

Boundaries and wards, 404.

POWDER MAGAZINES. *See* BY-LAWS, 15—POLICE VILLAGES, 2.

POUNDS AND POUND-KEEPERS.

1. *Townships, Towns, Cities and Incorporated Villages may pass By-laws—*
 - For providing pounds, 200.
 - For restraining animals running at large, 200.
 - For appraising damages done by such, 200.
 - For determining compensation for services under this Act, 200.
2. *General regulations—*
 - What animals to be impounded, 201.
 - What to be done when pound unsafe, 201.
 - Statement of demand to be furnished, 202.
 - Form of agreement, 202.
 - Certain animals may be retained, 202.
 - Provision, if owner known, 202.
 - Same, if unknown, 202.
 - Duty of Township Clerk thereon, 203.
 - Provision if animal is worth \$10 or over, 203.
 - Notice of sale, 203.
 - When sale may be made, 203.
 - Provision if animal not impounded but detained, 203.
 - Requirements of notice, 204.
 - Cattle to be fed, 204.
 - Compensation therefor, 204.
 - How to be recovered, 204.
 - Other mode of enforcing, 205.
 - Sale, how effected, 205.
 - Purchase money, how applied, 205.
 - Disputes, how determined, 205.
 - Duty of Fence-Viewers, 206.
 - Penalty on Fence-Viewers for neglect, 206.
 - Proceedings, if fence unlawful, 206.
 - Provision, if animals not fed, 207.
 - Recovery of Penalties, 207.
 - Who to be Witnesses, 207.
 - Application of Penalties, 207.
 - Liability of owners for cattle at large, 251.

PRESCOTT (COUNTY).

Of what Townships composed, 429.
 A County for Representation in Assembly, 489.
 Part of Eastern Division for Legislative Council, 613.

PRESCOTT (TOWN).

Boundaries and Wards, 405.
 Provision for sale of School Lot in, 662.

PRESIDING OFFICER.

In absence of head of Council. *See* MUNICIPAL COUNCILS, 6.

PRINCE EDWARD.

- Of what Townships composed, 430.
- A County for Representation in the Assembly, 489.
- Part of Quinte Division for Council, 613.

PRISONERS.

- Effect of separation of Counties in, 23.

PRIVY VAULTS. *See* BY-LAWS, 15.

PROPERTY.

- Municipalities may hold. *See* MUNICIPAL COUNCILS, 1.
- PROVISIONAL COUNCILS, 1.
- Provincial Secretary to make Returns to Legislature, 73.

PROVISIONAL COUNCILS.

1. *Of Counties*, 4, 18.
 - Of whom composed, 30.
 - Officers, 19.
 - Heads thereof, 28.
 - Purchase of County Property, 19.
 - Powers of Union not interfered with, 19.
 - Debts of the Union, 20.
 - Agreement concerning, 20.
 - Appointment of Judge, Coroner, Clerk of the Peace in, 21.
 - How finally separated, 21.
 - Venue, after separation, 22.
 - Courts to be held in County Town, 23.
 - Effect of separation on prisoners, 23.
 - “ on persons on bail, 24.
 - “ on Gaol limits, 24.
 - When officers, &c., becomes absolute, 25.
 - Effect on By-laws, 25.
 - Effect on Debts, 24.
 - Debentures to be issued therefor, 27.
 - Previous assessment, how collected, 27.

Of Townships—

See TOWNSHIPS.

PUBLICATION OF BY-LAWS. *See* BY-LAWS, 2.—CONSOLIDATED MUNICIPAL LOAN FUND.

PUBLIC BUSINESS.

- Inquiry may be made as to, 293.
- Appointment of commissioners, 293.
- Powers, 293.
- Witnesses, 293.
- False swearing perjury, 293.

PUBLIC HEALTH.

- Health officers, who, 126.
- Appointment of Boards by Governor, 248.
- Their powers and duties, 248.
- Power to make rules as to vessels, 249.
- Penalty for disobedience, 249.
- How recoverable, 249.
- Proceedings in case of malignant diseases, 250.

PUBLIC HEALTH.—(*continued.*)

- Further provisions for, 308.
- How this Act (12 Vic. c. 8,) to be put in force, 308.
- Former Act thereby to be suspended, 309.
- Appointment of central Board, 309.
- Organization of local Boards, 310.
- Who to be members of local Boards, 310.
- When Governor to appoint, 310.
- Powers of central board to issue regulations, 311.
- Tenor of the same, 311.
- How far they may extend, 311.
- To what places may extend, 312.
- How long to continue in force, 312.
- Members of Local Boards Health officers, 312.
- Their powers, 312.
- Expenses of Central Board—how defrayed, 313.
- Same as to Local Boards, 313.
- Regulations of Central Board to be sanctioned by Governor, 313.
- Publication, evidence of sanction, 313.
- Proclamations to be laid before Parliament, 313.
- Local By-laws when to be suspended, 313.
- Penalty for contravening the Act, 314.
- Committal of offender in certain cases, 314.
- Application of penalties, 314.
- Certiorari taken away, 314.
- Interpretation of certain words, 315.

PUBLIC HIGHWAYS. *See* ROADS.PUBLIC MEETINGS. *See* SPECIAL CONSTABLES.

- What meetings within the Act, 258.
- Further meetings so protected, 259.
- Other meetings, 259.
- Manner of convening such meetings, 259.
- Same if called by Sheriff, 260.
- Same if called by private persons, 260.
- When Sheriff or Justices to call, 260.
- Duty of Justices, 260.
- Duty of Sheriff's, &c., 261.
- Duty of Chairman, 261.
- Powers of Chairman, 261.
- Power to call on Justices for aid, 262.
- Duty of Justices to swear-in constables, 262.
- Punishment for refusal to be sworn, 262.
- Power to disarm, 262.
- Certain arms to be restored, 263.
- Batteries, how punished, 263.
- No one within two miles to be armed, 263.
- Lying in wait, how punished, 264.
- Actions for things done under this Act, 264.
- Act to be read at Quarter Sessions, 264.
- Clause to be added to notice calling meeting, 264.
- Notice by Sheriff, &c, 265.
- Same by Justice of the Peace, 266.

PUBLIC WORKS.

1. *General matters—*

Councils may purchase, 113.
 May give bonds, &c., 113.
 May pass By-laws, &c., 113.
 Requirements of By-law, 113.
 Governor may sell, 307, 396.
 Transfer, how effected, 307, 397.
 Municipalities may expend certain public moneys, 393.
 Government may assign claims against Municipalities, 409.
 Evidence of transfer, 409.
 Power of Councils to acquire without Municipalities, 445.

2. *Prevention of Riots, &c.—*

To what works this Act to apply, 270.
 Duration of Act as to such works, 271.
 No Arms while in force, 271.
 Weapons to be delivered to Magistrate, 271.
 When to be returned, 271.
 When forfeited, 272.
 Penalty for contravention, 272.
 Search for arms, 272.
 Forcible entry, when, 272.
 Arrest on suspicion, 273.
 Monthly return of weapons seized, 273.
 Weapons forfeited to be sold, 273.
 Proceeds, how applied, 273.
 Time for actions for any thing so done, 273.
 Venue, 273.
 Costs, 273.
 Before whom penalties recoverable, 274.
 Mounted Police Force may be raised, 274.
 Officers may be appointed Justices, 274.
 Provision for committals, 274.
 Mounted Policemen to be Constables, 275.
 Expenses, how defrayed, 275.
 Interpretation clause, 275.

3. *Prevention of sale of Intoxicating Liquors—*

Not to be sold within certain distance of, 494.
 Powers of Governor in this respect, 494.
 Penalties for contravention, 494.
 How recoverable, 495.
 Agents punishable as Principals, 495.
 Who to hear and determine, 495.
 Award of costs, 495.
 Appeal, when allowable, 495.
 Search for liquors, when allowable, 496.
 Liability of owner when liquor found, 497.
 Destruction of liquor, 497.
 Fine in addition, 497.
 Proceedings if owner unknown, 497.
 Forfeiture of liquors, 497.
 Sale of liquors no consideration to support a contract, 497.
 Compulsion of witnesses, 498.
 Protection of Magistrates, &c., 498.

PUBLIC WORKS—(*continued.*)

Costs of enforcing judgment, 498.

Costs under this Act, 498.

Proceedings not void for want of form, 493.

Repeal of inconsistent enactments, 499.

PUNISHMENT.

For offences against By-laws. *See* BY-LAWS, 6.

PUPPET SHOWS.

To regulate. *See* BY-LAWS, 12.

QUAIL.

Time for killing. *See* GAME.

QUALIFICATION (CANDIDATES).

1. *Townships*, 31.2. *New Townships*, 32.3. *Police Villages*, 31.4. *Incorporated Villages*, 31.5. *Towns*, 31.6. *Cities*, 31.

Disqualifications, 32.

QUALIFICATION (ELECTORS).

1. *Incorporated Villages*, 35.2. *Towns*, 35.3. *Cities*, 35.4. *Townships*, 35.QUASHING BY-LAWS. *See* BY-LAWS, 4.

QUEEN'S.

Electoral Division Legislative Council, 612.

QUINTE.

Electoral Division Legislative Council, 613.

QUORUM.

What constitutes. *See* MUNICIPAL COUNCILS, 6.

QUO WARRANTO.

Writs in the nature of. *See* CONTESTED ELECTIONS.RAILWAYS. *See* ASSESSMENTS.1. *Power of Municipalities*—

To subscribe for stock in, 192, 444.

For guaranteeing debentures, 192.

For issuing debentures, 193, 444.

Confirmation by public vote, 193.

Form of such debentures, 193.

When head of Corporation ex-officio director, 193.

When to vote at election of directors, 445.

Townships may aid, 499.

RAILWAYS—(continued.)

2. *Accidents*—

Cattle not to run at large within a certain distance of, 615.
If contravening and killed, no right of action, 616.

3. *Grand Trunk Line*—

Municipalities may aid, 446.
How funds to be raised, 446.
Municipal subscription fund constituted, 448.
How money to be raised therein, 448.

RATES. *See* ASSESSMENTS, BY-LAWS, 7.—CONSOLIDATED MUNICIPAL LOAN FUND.

RECEIVER GENERAL. *See* CONSOLIDATED MUNICIPAL LOAN FUND.

RECORDER. *See* ADMINISTRATION OF JUSTICE, 4.

RECORDER'S COURT. *See* ADMINISTRATION OF JUSTICE, 3.

REEVE

Interpretation of the word, 231.
Head of certain Councils, 28.
When a deputy, entitled to sit, 30.

REFUGE (HOUSES). *See* ADMINISTRATION OF JUSTICE, 14.

REGISTRAR.

Interpretation of the word, 318.
Appointment of, for Provisional Municipality, 21.
Office of, place for, 21.

REGISTRATION OF DEBENTURES. *See* DEBENTURES, 2.

REGISTRATION OF VOTERS (PARLIAMENTARY). *See* ASSESSMENTS.

1. *Qualification of voters*—

Persons mentioned, and no others, to vote, 672.
Qualification in cities and towns, 672.
Qualification if not in cities or towns, 672.
How as to joint-owners, 673.

2. *Disqualifications*.

Certain persons described, 673.

3. *Registration*—

Duty of Clerk of Municipality to make lists, 673.
How to be attested, 674.
Duplicates to Clerks of Peace, 674.
When to be completed, 674.
No one not on lists entitled to vote, 674.
What question only to be raised at polls, 674.
When list to be deemed finally passed, 674.
Decision of County Judge final, 674.
Amendments of Bill, 675.
Powers of County Judge, 675.
Costs to be apportioned by Judge, 675.
Deposit by appellant, 675.

4. *Miscellaneous provisions*—

Copies of lists to be given on demand, 676.
Certain offences felonies, 676.

REGISTRATION OF VOTERS (PARLIAMENTARY)—(*continued.*)

Requisites of indictment, 676.

Power of Judge at any time to correct lists, 679.

RELIGIOUS SOCIETIES. *See* MATRIMONY.1. *Power to hold lands—*

Certain Denominations named may hold lands, 244.

Limitation as to quantity, 244.

Trust deeds to be registered, 244.

Prior conveyances valid, 244.

Power to hold lands extended, 253.

Roman Catholic Church included, 254.

Any Religious Congregation may so hold lands, 276.

Conveyance, when to be registered, 277, 378, 484.

Power of Trustees to alienate, 379.

Effect of their receipts, 379.

Application of purchase money, 379.

Provision as to lands given for special purposes, 379.

Same as to Wesleyan Methodists, 379.

Land may be acquired for burial places, 418.

Lands may be mortgaged, 418.

2. *Power to alienate lands—*

Trustees may lease, 571.

Terms and effect of lease, 571.

Provision as to terms already demised, 571.

Trustees may distrain for rent, 572.

When consent of Congregation necessary to lease, 572.

When land may be sold, 572.

How to be sold, 572.

Statements of rents, &c., to be prepared by Trustees, 573.

Liability to account in Chancery, 573.

RENFREW.

Incorporated as a Village, 663.

Boundaries of Village, 663.

REPEALING BY-LAWS. *See* BY-LAWS, 7.

REPRESENTATION.

1. *Legislative Assembly—**Counties—*

Addington, 485.

Brant, 489.

Bruce, 485.

Carleton, 489.

Dundas, 489.

Durham, 486.

Elgin, 489.

Essex, 489.

Frontenac, 489.

Lennox and Addington, 485.

Glengarry, 489.

Grenville, 487.

Grey, 489.

Haldimand, 489.

1. *Legislative Assembly—**Counties—*

Halton, 489.

Hastings, 486.

Huron and Bruce, 485.

Kent, 489.

Lambton, 489.

Lanark, 487.

Leeeds and Grenville, 487.

Lennox and Addington, 485.

Lincoln, 489.

Middlesex, 486.

Norfolk, 489.

Northumberland, 486.

Ontario, 487.

Oxford, 486.

REPRESENTATION—(continued.)

1. *Legislative Assembly*—*Counties*—

Peel, 489.
 Perth, 489.
 Peterborough, 489.
 Prescott, 489.
 Prince Edward, 489.
 Renfrew, 489.
 Russell, 489.

Cities and Towns—

Brockville, 490.
 Cornwall, 490.
 Hamilton, 490.
 Kingston, 490.

1. *Legislative Assembly*—*Counties*—

Simcoe, 487.
 Stormont, 489.
 Victoria, 489.
 Waterloo 488.
 Wellington, 488.
 Wentworth, 487.
 York, 486.

Cities and Towns—

London, 490.
 Niagara, 490.
 Ottawa, (Bytown) 490.
 Toronto, 489.

2. *Legislative Council*—

Elective members authorized, 611.

Electoral Divisions—

Bathurst, 613.
 Brock, 612.
 Burlington, 612.
 Cataraqui, 613.
 Eastern, 613.
 Erie, 612.
 Gore, 612.
 Home, 612.
 King, 612.
 Malahide, 612.
 Midland, 612.
 Newcastle, 613.

2. *Legislative Council*—

Number thereof, 611.

Electoral Divisions—

Niagara, 612.
 Queen's, 612.
 Quinte, 613.
 Rideau, 613.
 Saugeen, 612.
 St. Clair, 612.
 St. Lawrence, 613.
 Tecumseth, 612.
 Thames, 612.
 Trent, 613.
 Western, 612.
 York, 612.

RESIDENCE. *See* ELECTION.

Oath of, by aliens. *See* ALIENS.

RESIGNATION.

Of Head of Council, 68.
 Vacancy, how filled, 69.
 Of any member, 69.
 How effected, 69

RESPONSIBILITY.

Of Municipal Officers. *See* ASSESSMENTS, 9.

RESOLUTIONS.

Power to make, 35.
 Nature of, 85.
 Quashing. *See* BY-LAWS, 4.

RETURNING OFFICERS. *See* TOWNSHIPS.

Councils to appoint, 39.
 When clerks to be, 39.
 As to newly incorporated Villages, 40.
 As to Police Villages, 40.

RETURNING OFFICERS—(*continued.*)

Powers, 40.

May swear in constables, 40.

Duties. *See* ELECTIONS—MAYORS.How made a party to a contested Election. *See* CONTESTED ELECTIONS.RETURNS (TO GOVERNMENT). *See* CLERGY RESERVES, MATRIMONY.

By Clerks of Townships, 71, 499.

Villages and Towns, 71, 490.

When to be made, 71, 490

By Clerks of Counties, 71, 490.

When to be made, 490.

By Clerks of Cities, 73, 491.

When to be made, 73, 491.

By proper Officer of Fee-fund, 491.

When to be made, 491.

By proper Officer of Jesuits Estate and School Fund, 491.

When to be made, 73, 491.

Penalty for failing to make Returns, 491.

Copies to be laid before Parliament, 73, 491.

REVISION OF ASSESSMENT ROLLS. *See* ASSESSMENTS, 4.

RIDEAU.

Elective Legislative Council, division of, 613.

RIDING.

Fast, over Bridges, &c. *See* ROADS, 7, 8.

RIOTS.

1. *At Elections.* *See* ELECTIONS.2. *At Public Works.* *See* PUBLIC WORKS.3. *Special Constables*, employment of. *See* SPECIAL CONSTABLES.RIVERS. *See* LINE FENCES.1. *General Matters*—

Counties on, how bounded, 427.

Right to float logs, &c., 377.

Certain things not to be thrown into, 268.

Penalty for contravention, 269.

How recoverable, 269.

Appeal given, 268.

Appropriation of penalty, 268.

Damages to be assessed, 269.

Imprisonment in default, 269.

Further penalty, 305.

How recoverable, 305.

Not to extend to dams, weirs, &c., 306.

St. Lawrence and other rivers excepted, 456.

Mill Dams—

Aprons to be constructed, and how, 245, 376.

Penalty for neglect, 245, 376.

Appropriation thereof, 245.

Use of water slushers, 376.

Certain time allowed for repairs, 377.

Special provision for Huron, 290.

Same for River Otonabee, 376.

ROADS. *See* SURVEYS.1. *General matters—*

- Interpretation of Ward, 231.
- What constitute highways, 167.
- When vested in the Crown, 168.
- Jurisdiction of Municipalities, 169.
- Provincial, under Board of Works, 169.
- Roads on Ordnance lands, 169.
- What, not to be closed, 170.
- Not to encroach upon houses, 170.
- Width thereof, 170.
- By-laws affecting, 171.
- Notice to be given, 171.
- Publication thereof, 172.
- Parties to be heard, 172.
- Clerk to give notice, 172.
- Witnesses, how to be sworn, 172.
- Compensation for lands taken, 172.
- Titles to land, how acquired, 173.
- Though parties incapacitated, 174.
- Effect upon proceeds, 175.
- Where Municipalities jointly interested, 175.
- How jurisdiction exercised, 175.
- Arbitration in case of dispute, 176.

2. *Powers of all Municipal Councils.*

- For commutation of statute labor, 176.
- Amount of commutation, 176.
- For regulating number of days, 177.
- For enforcing performance of labor, 177.
- For regulating manner of performance, 177.
- General powers to open, improve, &c., 177.
- For levying tolls, 178.
- For regulating fast-driving, &c., 178.
- For regulating pits, precipices, &c., 178.
- For selling timber on allowance, 179.
- For selling road allowances, 179.
- For giving privileges to Companies, 179.
- For taking stock in companies, 179.
- For leasing tolls, 180.
- Duty of lessee, 180.
- Conveyance of old road allowance, 181.
- Sale in certain cases, 181.
- By-law for the purpose, 182.
- Granting aid for making, 182.
- Certain, vested in Municipalities, 183.
- To be kept in repair by Corporation, 184.

Cities, Towns and Incorporated Villages may pass By-laws—

- For assessing for local improvements on streets, 185.
- For widening and repairing same, 185.
- For preventing obstructions, 185.
- For removal of door steps, 185.
- For settling boundaries, 185.

Exclusive Jurisdiction of Counties—

- Over what roads, &c., 186.

ROADS—(continued.)

- Duty to plank, macadamize, &c., 186.
- Transfer of powers of Justices in sessions, 186.
- 5. *General powers of Counties—*
 - For stopping up, &c., roads, 187.
 - For preventing fast driving, 187.
 - For opening, &c., roads, 187.
 - For removing of trees, 188.
 - For levy of local rates, 188.
 - Requirements of By-laws therefor, 189.
 - For aiding townships as to roads, 189.
 - For making, &c., county roads, 190.
- 5. *Powers of Townships to pass By-laws—*
 - For aiding County Roads, 190.
 - For stopping up road allowances, 190.
 - For removal of trees, 190.
 - For sale of Roads in Police Villages, 191.
 - When Village partly in two Townships, 192.
- 6. *Exemption from Tolls—*
 - Vehicles with manure, 267.
 - Persons going to Church, 267.
 - Person going from one part of his land to another, 267, 396.
 - Act not to extend to Private toll bridge, 268.
- 7. *Fast Driving—*
 - Penalty for, over certain bridges, 288, 578.
 - How levied, 288.
 - Commitment of offender, 288.
 - How penalty appropriated, 288.
 - Notice to be posted on bridges, 288.
 - Penalty for defacing notice, 288.
- 8. *General Regulations as to driving—*
 - Carriages meeting to drive to the right, 577.
 - Provision if weight of one prevents this, 577.
 - Carriages overtaken to turn to right, 577.
 - Provision if weight of one prevents this, 577.
 - Penalty for being too drunk to manage horses, 578.
 - Racing, swearing, &c., forbidden, 578.
 - Sleigh horses to have bells, 578.
 - Penalties for contravention of the Act, 578.
 - Application of penalties, 578.
 - Convictions subject to appeal, 579.

ROAD ALLOWANCES. *See* ROADS.

ROAD SURVEYORS.

Appointment of, 124.

ROMNEY.

Made an independent township, 475.

RULES (ELECTION.) *See* CONTESTED ELECTIONS.

RUSSELL (COUNTY.)

Of what Townships composed, 429.

Gloucester & Osgoode added to, for representation in Assembly, 483;
Part of Eastern Division for Legislative Council, 613.

SABBATH.

Observance of. *See* BY-LAWS, 12.

SALOON-KEEPERS.

Disqualified to be members of Council, 32.

SAINT CATHARINES.

Boundaries and wards, 406.

Authorized to sell and convey certain land purchased for a cemetery, 609.

SAINT CLAIR.

Elective Legislative Council, Division of, 612

SAINT LAWRENCE.

Same, 612.

SALE.

1. *For taxes.* *See* ASSESSMENTS, 8.
2. *Of lands held for educational purposes.* *See* EDUCATIONAL INSTITUTIONS.
3. *Of lands held for religious purposes.* *See* RELIGIOUS SOCIETIES.

SALTFLEET (TOWNSHIP)

Survey in, 246, 251.

SANDWICH.

Incorporated as a town, 645.

Not to be divided into wards, 646.

Boundaries of town, 646.

SARNIA.

Draining of Lake Wawanosh, 659.

SCHOOLS. *See* BY-LAWS, 13. **COMMON SCHOOLS.** **GRAMMAR SCHOOLS.**

Masters of, exempt from municipal offices, 33.

Trustees may hold sites for, 292.

Deed to be registered, 292.

SCUGOG.

New Township. 434.

SEAL.

Corporation to have a, 3, note *d*.

SECURITIES.

To be given by collectors, &c. *See* ASSESSMENTS, 9.

SENIORITY.

1. *Of Townships,* 16.
2. *Of Counties,* 17.

SEPARATION.

1. *Of United Townships.* *See* TOWNSHIPS.
2. *Of United Counties.* *See* COUNTIES.

SHERIFF. *See* ASSESSMENTS, 8. **JURORS.**

Appointment for Provisional Municipality, 21.

Officer, disqualified to be member of Council, 32.

Exempt from same, 33.

Duty of, on executions against Corporations. *See* EXECUTIONS.

Fees, in criminal cases, 297.

SHOP LICENSES.

To sell spirituous liquors. *See* BY-LAWS, 9.

SHOWS.

To regulate. *See* BY-LAWS, 9.

SIGN BOARDS. *See* BY-LAWS, 9.

SIMCOE (COUNTY.)

Of what townships composed, 431.

Divided into two Ridings for representation in Assembly, 487.

North Riding part of Saugeen Division for Council, 612.

South Riding part of Midland for same, 612.

SINGULAR NUMBER.

When indicative of plural, 317.

SINKING FUND. *See* ACCOUNTS. CONSOLIDATED MUNICIPAL LOAN FUND.

SLAUGHTER HOUSES.

Regulations for. *See* BY-LAWS, 15.

SMALL POX.

Penalty for inoculating with, 499.

License of offenders void, 500.

May be again restored, 500.

SNOW, &c.

Removal. *See* BY-LAWS, 16.

SOLICITORS.

Exempt from municipal duties, 33.

SOPHIASBURGH.

Boundary between it and Hallowell altered, 335.

SOUTHAMPTON.

Incorporated as a Village, 666.

Boundaries of Village, 666.

SOUTH DORCHESTER.

New Township, 434.

SOUTHWOLD.

Certain road allowances vested in James Taunton, 383.

SPECIAL CONSTABLES.

When and by whom appointed, 299.

Who may be appointed, 299.

Oath to be administered, 300.

Form thereof, 300.

Notice of appointment, to Government, 300.

Justices may make regulations, 300.

And may remove Constables, 300.

Powers of Special Constables, 300.

Power to act in adjoining District, 301.

Penalty on persons appointed refusing to act, 301.

Sufficiency of excuse, 301.

Penalty for refusing to obey orders, 301.

Sufficiency of excuse, 302.

Justices may suspend service, 302.

SPECIAL CONSTABLES—*(continued.)*

Notice thereof to Provincial Secretary, 302.
 Punishment for assaulting Constables, 302.
 Remuneration, 303.
 How and by whom paid, 303.

SPIRITUOUS LIQUORS. See BY-LAWS 9. — INDIANS — INSPECTORS OF LICENSES—PUBLIC WORKS, 3.1. *Licenses to sell—*

Powers of Municipal Councils as to. See BY-LAWS, 9.
 Sum payable for license, 128.
 When license not required, 129.
 Sale of, to be consumed out of doors, 129.
 Notice of license to be exhibited, 120.
 Penalty, 130.
 How recoverable, 130.
 Appropriation of, 130.
 Duties of licensed shopkeeper, 130.
 Prosecutions for sale of, without license, 130.
 Before whom penalties recoverable, 130.
 How recoverable, 130.
 Appropriation of, 130.

2. *Sale to Indians—*

Not to be sold to Indians, 252.
 Fine for contravention, 252.
 How collected, 252.
 Other penalties, 252.

3. *Sale in Gaols—*

Sale contrary to regulations punishable, 252.
 Fine therefor, 252.

4. *Sale on the line of Public Works—*

See PUBLIC WORKS, 3.

STAMFORD.

Certain road allowance vested in private persons 590.

STANDARD. See SURVEYS 2—WEIGHTS AND MEASURES.**STANLEY (TOWNSHIP).**

Authorized to construct Harbour of Bayfield, 688.

STATUTE LABOR. See ASSESSMENTS, 6—ROADS, 2.**STATUTES.** See INTERPRETATION ACT.

Language of, 1.

STONE BOUNDARIES. See SURVEYS, 2.**STORMONT (COUNTY).**

Of what Townships composed, 429.
 A county for representation in assembly, 489.
 Part of Eastern Division for council, 613.

STRATFORD.

Incorporated as a Town, 665.
 Division of into five wards, 665.
 Boundaries of wards, 665.

STRAW. Not to be kept in Dwelling Houses. *See* POLICE VILLAGES, 2.

STREAMS. *See* RIVERS—TOWNSHIPS.

STREETS. *See* ROADS.

STREETSVILLE.

Incorporation confirmed, 670.

To receive portion of Municipalities Fund, 670.

SURGEONS.

Exempt from Municipal offices, 33.

Appointment of, for Gaols, 143.

SURPLUS. How to be applied. *See* ACCOUNTS—BY-LAWS—CONSOLIDATED MUNICIPAL LOAN FUND.

SURVEYOR GENERAL—

Transfer of powers to Commissioner of Crown Lands, 276.

SURVEYS. *See* BY-LAWS.

1. *Surveyors*—

Qualification of, 329.

Period of Service, 329.

Filing of articles, 423.

Examination required, 330.

Certificates required, 331.

Board constituted, 331, 421.

Appointment of Secretary, 331.

Meetings of Board, 331.

Power to adjourn, 331.

How board paid, 567.

Notice to be given by candidates, 331, 422.

Fee, 331, 422, 567.

Certificate of admission, 347.

Expenses of board how defrayed, 332.

Security to be given by candidates, 332.

Oath of allegiance to be taken, 332, 422.

Deposit of oaths, 332.

Deposit of certificate, 332.

Powers of Board, 332.

Examination of apprentices, 567.

Fees, certificates, 568.

Chain-bearers to be sworn, 332.

Not to be related to parties, 332.

Standard, where to be kept, 333, 423.

Punishment for molesting, when on duty, 333.

Civil remedy not taken away, 333.

Allowance to, when witnesses, 568.

Proceedings where documents in possession of third party required, 568.

2. *Surveys*—

Powers of Councils to have, 335, 569.

Permanent boundaries, 33.

One half resident householders to apply, 133.

Survey, how to be made, 134.

SURVEYS—(*continued.*)

- Costs, how defrayed, 134, 335, 569.
- Points at which monuments to be placed, 334.
- Under whose direction to be placed, 334.
- Certain boundaries deemed true ones, 334.
- Punishment for defacing land marks, 334.
- Monuments, when not to be placed, except on application of Municipal Council, 335.
- Certain boundaries deemed true ones, 336.
- Townships, of what composed, 336.
- As to aliquot parts, 336.
- Road allowances deemed highways, 337.
- Provision for lands granted in blocks, 337.
- Governing lines declared, 338.
- What deemed front concessions, 339.
- How to renew lines in double-fronted concessions, 570.
- Provision if not run in original survey, 339.
- Fronts in certain other cases, 340.
- Provision if only alternate concessions run, 340.
- Provision if original post not to be found, 341, 547.
- Rule if concession not run in original survey, 630.
- As to allowances for roads in towns, &c., 342.
- Plans to be deposited, 342.
- To be certified, 343.
- Penalty for neglect, 343.
- Recovery of penalty, 343.
- Duty of Registrar, 343.
- As to lands in adjoining concessions, 344.
- Surveyors to keep Journals, 344.
- to administer oaths, 344.
- Evidence taken to be in writing, 345.
- Wilful swearing, perjury, 345.
- As to improved lands, 345.
- Ejectment in such cases, 346.
- Proof, 346.
- Interpretation clause, 346.

TAVERN LICENSES. *See* BY-LAWS, 9.

Sum payable therefor, 123.

TECUMSETH.

Elective Legislative Council, Division of, 612.

TENDER.

Of amends. *See* BY-LAWS, 5.

THAMES.

Elective Legislative Council, Division of, 612.

THORALD (TOWNSHIP).

Certain road allowances vested in different parties, 661.

TIMBER. *See* INDIANS.—ROADS, 5.

TIPLING HOUSES.

Suppression of. *See* BY-LAWS, 12.

TOLLS. *See* MILLS—ROADS.

TOMBS. *See* BY-LAWS, 9.

TORBOLTON (TOWNSHIP.)

Legalized, 473.

TORONTO (CITY).

A Division for representation, 489.

Part of York for Legislative Council, 612.

Boundaries, Wards, &c., 368.

Division of St. Patrick's Ward authorized, 472.

Northern boundary settled, 600.

1. *Consolidation of debt—*

Authority to consolidate debt, 456.

Issue of Debentures therefor, 457.

How money raised to be applied, 457.

Where to be deposited, 457.

How part thereof to be applied to stock of certain railways, 457.

A certain By-law repealed, 458.

How money raised to be invested, 453.

No By-law to be repealed till debt paid, 458.

2. *Esplanade—*

May build an Esplanade, 548.

May borrow money therefor, 548.

Special rate to be levied on water lot owners, 548.

Such rate to include provision for Sinking Fund, 548.

Duty of City Surveyor, 549.

Provision if owner dissatisfied, 549.

Provision if owner unable to act, absent, &c., 549.

Sum finally ascertained, to be charged on land, 550.

How to be payable, 550.

How recoverable, if not paid, 550.

Application of moneys received, 550.

Registry of award, &c., 551.

By-law imposing rate not to be repealed till debt paid, 551.

Duty of Chamberlain, 551.

Conveyances to owners, 551.

Owners may build share of, 552.

To be commenced within a certain time, 552.

Land granted for public walk to be conveyed to city, 552.

Esplanade to be made on same, 553.

Certain amendments confirmed, 553.

Right of Ordnance Department saved, 553.

Land in front of Parliament building reserved, 553.

Esplanade thereon to be made by Government, 553.

Provision as to Railways on Esplanade, 554.

Compensation to be paid by Company, 554.

Terminus on, how to be settled, 554.

Debentures not to be disposed of under par, 554.

Power to take certain lands for, 635.

Power to contract for filling a certain space, 635.

How the cost of filling to be paid, 636.

Individual share of cost, how to be ascertained, 636.

Arbitration in case of non-agreement, 637.

Power to borrow money to defray cost of filling, 637.

TORONTO (CITY)—*continued.*)

Appeal from arbitration in certain cases, 637.

Duty of arbitrator, 637.

As to payment of money due by owners of lots, 638.

Power to lease or sell a certain strip of land, 638.

Application of proceeds, 639.

Act not to affect Ordnance lands, 639.

3. *Peninsular*—

Governor may grant, to corporation, 580.

So Ashbridge's Bay and Marsh, 580.

Conditions and restrictions to be observed, 580.

Force and effect thereof, 580.

This Act a public Act, 580.

4. *Water Works*—

Power to erect, 639.

TORONTO GENERAL BURYING GROUND.

Power of Trustees to close, 581.

TOWN COUNCILS. *See* MUNICIPAL COUNCILS.TOWN REEVES. *See* REEVES.TOWNS. *See* JUSTICES OF THE PEACE.

Erection of Villages into. *See* VILLAGES.

Erection into cities, 7.

Notice to be given, 7.

Census returns to be certified, 8.

Adjustment of existing debt, 8.

Existing by-laws continued, 10.

Parts of adjacent townships may be included, 3, 9.

Effect on land so attached, 9.

Effect of by-laws thereon, 10.

Liability to debts to continue, 11.

Officers to continue till changed, 12.

Division of, into wards, 9.

New division of, into wards, 9.

Withdrawal of, from county, 12.

Adjustment of expenses of administration of Justice, 12.

Other matters 13.

Copy of agreement to be sent to Governor, 13.

Issue of proclamation, 13.

Effect thereof, 13.

Payment of jurors, 13.

New agreement after five years, 14.

Disposition of property, 14.

Head and members of, 28, 29.

Returns by, to Government. *See* RETURNS.

TOWNSEND.

Survey in, 243.

TOWNSHIP COUNCILS. *See* MUNICIPAL COUNCILS.TOWNSHIPS. *See* SURVEYS.

Interpretation of the word of, 231.

Erection of certain, confirmed, 322.

TOWNSHIPS—(*continued.*)

- Disposition of Gores, 322.
- Erection of new, 14.
- Requirements of proclamation, 14.
- How re-united, 16.
- Effect of union when in different counties, 16.
- When united, how separated, 14.
- Annexation of Gores, 15.
- Seniority of, 16.
- Disposition of property after separation, 25.
 - “ of other assets, 26.
 - “ of debts, 26.
- Adjustment of debts, 26.
- Interest on, 26.
- Effect as to debts previously incurred, 26.
- Debentures to be issued, although separated, 27.
- Previous assessments, how collected, 27.
- Head and members of, 28, 29.
- When Deputy Reeve entitled to seat, 30.
- Qualification of members, 31.
- Returns by, to Government. *See* RETURNS.
- May pass by-laws for creation of wards, 139.
- To be five in all cases, 139.
- For altering or abolishing, 139.
 - Publication of By-law, 139.
 - When By-law to take effect, 140.
 - Vote of Electors thereon, 140.
 - Duty of Reeve in respect thereof, 141.
 - Places for publication, 141.
 - Form of poll books, 141.
 - When certified, to be returned to Reeve, 141.
 - Duty of Reeve upon receipt, 141.
- For creation of Electoral Divisions, 142.
 - For establishing polling places, 142.
 - For appointing Returning Officers, 142.
- For raising money for support of Poor, 142.
 - To be assessed equally, 142.
- For preventing obstructions of streams, 142.
 - For removing such obstructions, 142.
 - For levying amount of expenses, 142.
- For drainage, 143.
 - For assessing cost thereof, 143.
 - For regulating payment thereof, 143.
 - For apportionment of assessment, 143.
 - Publication of By-law, 144.

TREASURER. *See* OFFICERS.

TREES. *See* INDIANS.—ROADS, 5.

TRESPASSES. *See* INDIANS.

TRUSTEES. *See* POLICE VILLAGES, 1.

TURKEYS.

Time for killing. *See* GAME.

UNWHOLESOME MEAT. *See* BY-LAWS, 15.

UNIONS.

Of Townships, how dissolved. *See* TOWNSHIPS.
Of Counties, how formed, 17.
Laws applicable to, 17.
Venue in judicial proceedings, 18.

UNIVERSITIES.

Master, &c., exempt from municipal offices, 33.
Defraying expenses of Pupils at, 150.

UPPER CANADA.

How these words interpreted, 317.

VACATION OF SEATS. *See* MUNICIPAL COUNCILS, 5.

VAGRANTS.

Punishment of. *See* BY-LAWS, 12.

VEHICLES.

Regulation of. *See* BY-LAWS, 15.

VENUE.

In case of United Counties, 18.
After separation, 22.

VICTORIA. *See* PETERBOROUGH AND VICTORIA.

Of what Townships composed, 430.
A County for representation, 489.
Part of Queen's for Legislative Council, 612.
New Townships added to, 664.

VILLAGE COUNCILS. *See* MUNICIPAL COUNCILS.

VICTUALLING HOUSES.

Regulation of. *See* BY-LAWS, 9.
How licensed, 132.

VILLAGES, (INCORPORATED.)

Incorporation of, 6.
When in two or more Counties, 6.
When Governor to interfere, 6.
Boundaries, how extended, 7.
Erection of, into Towns, 7.
Notice to be given, 7.
Census returns to be certified, 8.
Existing By-laws continued, 10.
Liability to debts to continue, 11.
Officers to continue till changed, 12.
Parts of adjacent Townships may be included, 8.
Effect of By-laws thereon, 10.
Effect on previous debts, 11.
Head and members of, 28, 29.
Qualification, 31.
Electors. *See* ELECTORS.
Returning Officers. *See* RETURNING OFFICERS.
Returns by, to Government. *See* RETURNS.

VILLAGES (POLICE.) *See* POLICE VILLAGES.

VOTE (CASTING.) *See* MUNICIPAL COUNCILS, 6.

VOTERS' LIST. *See* ASSESSMENTS, 2.—REGISTRATION OF VOTERS

WALPOLE AND WOODHOUSE.

Boundary between defined, 385, 421.

WALLS (PARTY.) *See* BY-LAWS, 16.**WARDEN.**

Of what Councils head, 28.

WARDS. *See* TOWNSHIPS—TOWNS.

New Town or City may be divided into, 9.

Re-division, 9.

In Townships, 135.

Re-division, &c., 130.

WARWICK.

Cancellation of rectoral endowment, 610.

WATER COURSES. *See* LINE FENCES—RIVERS.**WATER FOWL.**

Time for killing. *See* GAME.

WATERLOO (COUNTY.)

Of what Townships composed, 355, 431.

Divided into two Ridings for representation in Assembly, 488.

North Riding part of Brock Division for Council, 612.

South Riding part of Gore for same, 612.

WATERLOO (TOWNSHIP.)

Divided for representation in Assembly, 488.

WATERLOO (VILLAGE.)

Incorporated, 653.

Boundaries of Village, 653.

May amalgamate with Berlin, 654.

WAWANOSH (LAKE.)

Drainage of, 659.

WEEDS. *See* BY-LAWS, 9.**WEIGHTS AND MEASURES.**

See also BY-LAWS.

Appointment of Inspectors, 576.

Money appropriated for standard, 241.

Where to be deposited, 242.

Duty of Provincial Secretary, 242.

Penalty for using false weights, 242.

Information of Inspector evidence, 253.

Inspectors of Licenses to be Inspectors of, 371.

Duty of Inspectors, 371.

Powers to enter shops, 372.

Forfeiture of false weights, &c., 372.

Further penalty, 372.

How recovered and applied, 372.

Punishment for forging stamps, 373.

Penalty for stamping without due examination, 373.

Fee to Inspector, 373.

With whom standards to be deposited, 374.

Notice of Inspectors attending, 374.

Copies of standards, 374.

Municipal Inspectors, 374.

Standards to be delivered over to successors in office, 375.

WEIGHTS AND MEASURES—(*continued.*)

Action if not so delivered, 375.

Appeal to Quarter Sessions. 375.

WELLAND (COUNTY.)

Of what Townships composed, 432.

A County for representation in Assembly, 484.

Part of Niagara Division for Council, 612.

Authorized to purchase Great Cranberry marsh, 588.

Power to raise money to liquidate certain debts, 583.

WELLAND VILLAGE.

Merricksville incorporated as, 669.

Boundaries, &c., 669.

WELLINGTON (COUNTY).

Of what Townships composed, 431.

Two Ridings for representation in Assembly, 488.

Part of Brock Division for Legislative Council, 612.

WENTWORTH.

Of what Townships composed, 555, 433.

Divided into two Ridings for representation in Assembly, 487.

Part of Burlington Division for Council, 612.

WESLEYAN METHODISTS. *See* RELIGIOUS SOCIETIES.

WEST GWILLIMBURY.

Part detached, 434.

WEST NISSOURI.

New Township, 434.

WEST ZORRA.

New Township, 434.

Authorized to dispose of a road allowance, 659.

WESTERN.

Elective Legislative Council, Division of, 612.

WHARVES.

Regulation of. *See* BY-LAWS, 15.

WHITBY (TOWN OF).

Incorporated, 562.

Divided into three Wards, 649.

Boundaries of Wards, 649.

WHITBY (TOWNSHIP).

Divided into two Municipalities, 659.

Certain road allowances, 660.

Vested in different parties, 661.

WILBERFORCE.

Certain road atlowance vested in John Shaw, 662.

WINCHESTER.

Road allowance vested in J. P. Crysler and another, 661.

Boundaries of certain lots defined, 584.

WINDSOR.

Incorporated as a Town, 648.

Division into three Wards, 649.

Boundaries of Wards, 649.

Informality in assessment roll remedied, 670.

WOODCOCK.

Time for killing. *See* GAME.

WOLFE ISLAND.

Mode of survey in, 583.

WOLFORD (TOWNSHIP.)

Survey in, 250.

WOODEN BUILDINGS. *See* BY-LAWS, 16.

WOODHOUSE.

Road allowance vested in A. Thompson, 436.

WOODHOUSE AND WALPOLE.

Boundary between, defined, 385, 421.

WOODSTOCK.

Boundaries, 255.

Incorporated as a Town, 606.

Division into Wards, 606.

WORK HOUSES. *See* ADMINISTRATION OF JUSTICE, 15.

WRITING, WRITTEN, &c.

Interpretation of the words, 317.

YONGE.

Survey in, 246.

YONGE AND ESCOTT.

Townships of, divided, 555.

YORK.

Electoral Division Legislative Council, 612.

YORK (COUNTY.)

Of what Townships composed, 431.

Three Ridings for representation, 486.

North Riding part of Midland for Legislative Council, 612.

East and West Ridings except Toronto part of King's, 612.

YORK (TOWNSHIP).

Road allowance vested in certain persons, 436.

Part of York Division for Legislative Council, 612.

YORK AND PEEL.

Provision for separation of, 592.

Provisional County for Peel, 593.

Its general powers, 593.

Meeting of Reeves to be called, 593.

Election of Provisional warden, 593.

Vote for or against separation, 593.

Provision if majority against separation, 593.

Powers of Council if the contrary, 594.

Appointment of officers, 594.

Oaths of office, 594.

Penalty for interrupting proceedings, 594.

When proclamation for dissolution to issue, 594.

Person to preside till appointment of provisional warden, 5

